A MANUAL OF PARLIAMENTARY PRACTICE.

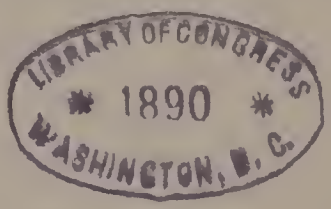
RULES

FOR

CONDUCTING BUSINESS

IN

DELIBERATIVE ASSEMBLIES.



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A NEW AND THOROUGHLY REVISED EDITION.

MACON, GEORGIA:
J. W. BURKE & CO.,
452 Second Street.

PREFACE.

By request, the Author, a few years ago, prepared a Manual for the use of a deliberative body of which he was the presiding officer. This was received by the public with favor, and passed through several editions. It was embarrassed, however, by the fact that it bore upon its face the evidence of its local origin and application. By the advice and request of distinguished presiding officers of legislative and ecclesiastical bodies, who were kind enough to commend it, the author has removed from it the traces of such local origin, and adapted it to universal use.

In its original publication, it was offered to supply a felt want. No other manual, so far as known, develops the important fact that there is an English General Parliamentary Code, and an American also, similar in the main, but differing in some important particulars. No student of the science can fail to be embarrassed who does not prosecute his inquiries in the light of this discrimination. Besides, as a science, it has the right to be presented in systematic form, with a development of the great principles on which its parts are based. A mere list of rules, without a statement of their reasons, and of their mutual connection in a system, would be of little value to one trying to qualify himself to be an

efficient parliamentarian. The attempt is made here to present the subject systematically as a science.

The distinction of questions into debatable and non-debatable is not arbitrary, but based upon principle; and it is important that the cases should be discriminated, and the reasons given which govern them severally. This the author has done. In the discussion of every form of question, he takes care to state when debate is not in order, and to give the reason for it, if necessary.

This manual will, of course, be found to differ from the special rules of legislative bodies. It is based upon General Parliamentary Law, and is an attempt to develop the American form of it; while legislative rule is an intentional departure from the General Code. The author hopes, however, that it will be found useful to members of legislative bodies; indeed, distinguished legislative presiding officers have been kind enough to say to him that they used his former publication as their text-book.

The hope is indulged that this manual will be found adapted to deliberative bodies of all kinds; and that intelligent presiding officers, even though they have not had the advantage of legislative training, will find in it hints and instructions which will enable them, with dignity and efficiency, to perform the duties of their office.

P. H. M.

University of Georgia, *Feb.* 9, 1876.

TABLE OF CONTENTS.

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PARLIAMENTARY PRACTICE.

CHAPTER I.

DELIBERATIVE BODIES.

1. A Deliberative Body is an organized assembly of persons convened to consider and act upon questions that may be legitimately presented to them according to the principles and forms sanctioned by immemorial usage. In all true deliberative bodies, the members are on an equality, and the officers are but the instruments and agents of the assembly.

SECT. I. — DIFFERENT KINDS OF DELIBERATIVE BODIES.

2. Some deliberative bodies are permanently established, and others are occasional.

3. Permanently established bodies are such as are required by constitutional provision to meet at stated times, with no provision for their final dissolution. These are subdivided into two classes.

I. In the first class are found those bodies whose members have no constituencies, but maintain the relation at will, or for life; or such elective bodies as always have a sufficient number holding position to qualify them for the transaction of business. Of the

former, are local churches in their business capacity, and the House of Peers in England, whose members hold the relation in the main by hereditary right; of the latter is the Senate of the United States, where the expiration of terms is so arranged as always to leave at least two-thirds of the members in position. These may be called, *par eminence*, permanent bodies.

II. Of the second class are such bodies as in form continue perpetually, but whose members retire from position either all together or in such numbers as to leave those who hold over so reduced as not to form a quorum. To this class belong Legislative assemblies, Boards of Managers, and religious constituent organizations.

4. Occasional deliberative bodies are such convocations as are called together for temporary purposes, which transact once for all the business for which they assemble, and then dissolve. Of these bodies also there are two classes:

I. The first class of occasional deliberative bodies are those whose members represent constituencies — to whom evidences of appointment are necessary to entitle them to a seat. Under this head are constitutional State conventions, Political conventions,—County, State or National,—councils, or "Committees of Help," appointed at the instance of a church to aid it in a case of discipline, &c., &c.

II. The second class of occasional deliberative bodies are those whose members have no constituencies, and need no credentials, but who are present at the instance of a legitimate public call in which they consider themselves embraced. Such are all meetings of citizens called for any special purpose.

5. There are certain permanently established bodies that are only *quasi* deliberative. Such are some ecclesiastical assemblies presided over by those who assert the prerogative to decline to put to the question any motion that they do not approve. These are not, in strictness, deliberative bodies.

SECT. II.—OF THE OFFICERS.

6. Every deliberative body needs essentially a presiding and a recording officer. The former is denominated, sometimes, *President;* sometimes, *Chairman;* sometimes, *Speaker;* and sometimes, *Moderator.* The latter is called *Secretary*, or *Clerk.* The term, *Chairman*,—originating in the fact that in Parliament the presiding officer alone is furnished with a chair—is the most generic of all. Thus, it is said of every presiding officer that he "takes the chair;" and, by a common figure of speech, he himself is spoken of as *The Chair.* The term *Speaker*, derived from a function in early times of the chief officer of the commons, is applicable only to legislative bodies. In this country, the popular branch of Congress, and all the lower, and a few upper, houses of State Legislatures, use it. All the other State Senates, and the Senate of the U. S., employ the term *President.* The chairman of a town-meeting in Massachusetts is called *Moderator.* With this exception, the term is limited to religious bodies. The Presbyterians and Baptists use it—the former, with their higher judicatories: the latter, with their church conferences and District Associations; the chief officer of their Convention they call *President.* The presiding Bishop of the Protestant Episcopal Convention is addressed as *President:* the same dignitary in the chair of the Methodist Conference is addressed by his title, *Bishop;* though he is called also *President* of the Conference.

SECT. III.—ORGANIZATION.

7. An assembly is organized when it is provided with suitable officers as organs or instruments of action.

8. Permanently established bodies, (*See par.* 3,) by constitutional provision or usage are provided with

temporary officers who call them to order and serve as instruments by which the permanent organization is effected. In some, as legislative bodies, these officers are the clerks and the sergeants-at-arms of the preceding house. The clerk of the House of Commons in England is appointed by the Crown, and holds office for life. In the lower branch of Congress, and in many State Legislatures, by usage or by law, he continues in office until his successor is appointed. In the House of Deputies in France, under the old constitution, the oldest member took the chair as president, and the five youngest members acted as clerks. By constitution or usage, the elective officers of constituent religious bodies hold office until their successors are appointed. The officers of a preceding meeting therefore constitute the temporary instrumentalities by which a permanent organization may be effected in a subsequent assembly.

9. In those legislative bodies not provided by law with a temporary president, the clerk, when the time arrives, takes his place at the table — not in the presiding officer's chair — and entertains motions and puts questions germain to the organization.

10. Churches, whose government is in the hands of the membership, are permanently organized bodies, the pastor being *ex officio* the presiding officer, and the member once elected clerk holding office until, by death or otherwise, a vacancy occurs.

11. As has been said, it is the province of the officers of the preceding meeting to organize the constituent religious body. They should take their places promptly, therefore, in the chair and at the table when the hour for the organization arrives. In the discharge of this duty, the presiding officer should entertain no motion excepting such as is strictly germain to the organization; for a deliberative body can properly enter upon no other business until it is organized. Should the presiding officer of the last meeting be absent, and there be no vice-president in attendance, it is the

province of the chief clerk or secretary to call the meeting to order and to receive motions and put questions. Should all the officers of the last meeting be absent, then the mode of organization will be as pointed out in the next paragraph.

12. Occasional assemblies (*see par.* 4) are usually organized in the following manner. When the appointed time has arrived, and the members are present, one of their number rises and requests the meeting to come to order. Upon this, all will be seated and will yield respectful attention. He then, remarking on the necessity of proceeding to the organization, requests that some one be nominated as a suitable presiding officer. Some name or names having been proposed, he announces that such a person (naming the one first nominated) is proposed as the presiding officer of the meeting, and puts the question on this proposition. Should it be decided in the negative, he puts the question on other names mentioned in succession, until one obtains a majority of the votes. It would be legitimate for him, instead of asking for a name, to nominate one himself, and, if seconded, to put the question on his own nomination. The person thus elected takes the chair, and proceeds to complete the organization by soliciting nominations for secretary and other necessary officers.

13. The above is all that is usually necessary in the organization of an occasional or temporary assembly. If, however, it is desirable to have a greater number of officers, or to select them with more care, it is customary to consider the organization thus effected as temporary and then refer to a committee the subject of the permanent organization, and the selection of suitable persons to fill the offices. Should the report of the committee, when presented, be adopted by the assembly, the temporary officers give way, and those permanently appointed assume the places to which they have been called. Should a constituent religious body, in case of the absence of the officers of

the last meeting, organize temporarily as pointed out in par. 12, those officers thus temporarily appointed should consider themselves as possessing the functions and occupying the places of the officers of the preceding meeting had they been present, and proceed to effect the permanent organization in the manner pointed out by constitution or usage.

SECT. IV. — CREDENTIALS OF THE MEMBERS.

14. In all deliberative bodies the members to which claim their seats by virtue of appointment, by a recognized constituency, or on the ground of conformity to any other constitutional requirement, it is necessary, before proceeding to business, to ascertain the names of the members, and to inquire into their credentials. This is necessary not only that all may be excluded who have no right to participate in the proceedings, but that a list may be made out for the use of the assembly and its officers.

15. In the case of legislative bodies and constitutional conventions, a preliminary inquiry is made, and the question of membership decided, for the time, by competent authority before the assembly meets. According to law, the election returns are sent to the office of the Governor of the State, where they are counted, and a list of the members made out. A certificate of election is furnished by the Governor to each one declared elected, and a complete list, through official channels, is placed in the hands of the clerk, which he reads out at the beginning of the proceedings. Only those then, and all those, "duly returned," and thus in possession of *prima facie* evidence of election, are entitled to participate in the permanent organization. Legislative bodies then, with safety, defer all inquiry themselves into the credentials of their members, and all consideration and adjudication of conflicting claims, until after their permanent organization.

16. But in the case of occasional constituent assem

blies (*see par.* 4, 1)—excepting those provided for by legislative enactment, as, *e. g.*, State constitutional conventions—the proper time for inquiry into the credentials of membership is immediately after the temporary organization. The assembly cannot enter into the inquiry until it has some kind of organization; and it is not prepared to proceed to the permanent organization until it has definitely ascertained and announced the names of all who are authorized to take part in such organization. There is nothing done by a deliberative body more important and decisive in results than the election of officers; and, if the credentials of members need not be looked into before that, it is hard to see why it is imperatively necessary afterwards.

17. The rule laid down above applies to religious constituent assemblies. The previous meetings furnish them officers for the temporary organizations; and they are in consequence in a condition to examine into the credentials of their members, before they proceed to the election of permanent officers. These assemblies in the main proceed on this principle. In some of them, though, it is customary for those who claim to be members to present, on invitation, their names to the secretaries. These names, without question, are officially announced on the mere authority of the claimants. This is in violation of principle, and dangerous. True, the assembly acquires a list of names, which can be officially read out; and impostors run some slight risk of exposure; but the house is not as competent to investigate the case as a small committee; and it is of necessity compelled to proceed on the principle of blind confidence. Some of these bodies have a pecuniary basis; and men claim membership because they have paid specified sums. Surely, one thus claiming should present the proof before it is officially announced that he is a member. Besides, in such bodies, all committees on credentials subsequently appointed, are misnomers; and if their report be presented towards the close of the session, it will evince that their function is

not to discover who of right may take part in the proceedings, but to secure an accurate list for publication in the minutes.

18. The most convenient mode of inquiring into qualifications of membership is by the appointment of a committee on credentials. The same committee may be empowered to inquire into and report upon rival claims, should any such be presented.

19. In case the right of any one to a seat should be questioned, it is customary to hear him in defence of his right. After this, should he be permitted to remain by vote of the assembly, he should participate no further in the proceedings on his case, and least of all should he vote. It is a violation of all principle for one to vote on a question personal to himself

SECT. V. — OF A QUORUM.*

20. All deliberative bodies are composed of individuals, and some members may be absent from the session. It becomes necessary, therefore, to decide in advance what number must be present to render proceedings valid. In some, as in the English Parliament, a few of the legislative bodies of this country, Boards of Managers, &c., the quorum is a definite number known beforehand. For instance, in the House of Commons, consisting of more than six hundred members, forty constitute a quorum; in the House of Lords, three. In Congress, and generally in the State Legislatures, it is an aliquot part of the whole. As a general thing, a majority of the whole constitutes the quorum in this country.

* "The term *quorum* (literally, *of whom*) is one of the words used in England in the Latin form of the commission to justices of the peace. The part of the document wherein the word occurs runs thus: 'We have assigned you, and every two or more of you, *quorum aliquem vestrum*, A, B, C, D, &c., *unum esse volumus*, — i. e., *of whom* we will that any one of you, A, B, or C, &c., shall be one.' This made it necessary that certain individuals, who, in the language of the commission, were said to be of the *quorum*, should be present during the transaction of business." — *Blackstone's Commentaries*, I. 352.

21. In those representative bodies the number of whose constituencies has been determined by constitutional provision or by law — as, *e. g.*, legislative assemblies — the quorum consists (if not otherwise provided) of the majority; not of those who are in attendance, but of the number who ought to have been elected and returned from the different election districts recognized by law. But in those that have no definite number of constituencies,—as, *e. g.*, those constituted on a pecuniary basis,—the quorum, if any at all, must consist of the majority of those who are present and answer to the roll-call.

22. Local churches, having independence and sovereignty,—as, *e. g.*, Congregational and Baptist, constitute deliberative bodies. These, as a general rule, require the attendance of their members, but, so far as known, the question of the quorum is but seldom, if ever, raised. Those, who are present at the time and place *appointed by regular authority* for the meeting, constitute the church in session, and are competent to transact business. Like the House of Peers in England, which they resemble also in the fact that they are not representative bodies, they act on the principle that but a few are absolutely necessary for the transaction of business. But it is always dangerous to decide questions eliciting division of sentiment, with the presence of less than a majority of the church. In such bodies as possess ecclesiastical power, as, *e. g.*, Presbyterian Higher Judicatories and Protestant Episcopal Conventions, stress is of necessity laid upon the quorum. With Episcopalians, the quorum is an aliquot part of the whole: with Presbyterians, a definite number. In Methodist Conferences, so far as known, the question of the quorum is never raised.

23. Baptist Associations have, by constitutional provision, a definite number that *may* be members; since they are composed of messengers sent by churches known to be in the union. But as the number of which they are to be composed depends in part upon the variable membership in the churches, it can never be

known, in advance, of what number the body must consist. Besides, these associations are not properly representative bodies; for churches are not able to delegate their authority. They are mere societies, and have no ecclesiastical jurisdiction or powers. Comity would require that churches in their union should appoint messengers to these bodies; but they are not required to do so, and may, at times, omit it, if so disposed. There is, consequently, no definite number of which these bodies *must* be composed. If, then, in the absence of any provision on the subject, a District Association has any quorum, it must consist of the majority of those in attendance.

24.—Such religious Conventions, Societies, and Unions as are constituted in whole or in part on a pecuniary basis, in the matter of the quorum, belong to the class of bodies whose numbers cannot be anticipated. Their quorum, then, in the nature of things, consists not of the greater part of a number designated in advance, nor even of those appointed, but only of a majority of those actually in attendance. The functions of these bodies, and the principles on which they are organized, rarely, if ever, furnish the occasion for raising the question of the quorum.

25. In bodies of definite numbers, and therefore whose quorum is known in advance, especially in legislative assemblies, no business can be regularly entered upon until a quorum is present; nor can the business be proceeded with when the members present are reduced below that number. The presiding officer therefore should not take the chair until the proper number is ascertained to be present, and should suspend proceedings immediately when notice is taken that the number present has fallen below a quorum. If, on a count, this be found to be a fact, the assembly should be immediately adjourned.

26. A smaller number than a quorum may adjourn from day to day; and some legislative bodies have by law given a smaller number than a quorum the power to compel the attendance of absent members.

SECT. VI. — OF THE RULES BY WHICH THEY ARE GOVERNED.

27. Every deliberative body must be necessarily placed under some rule. If, therefore, it has none of its own, it is of necessity placed under those which have been established by immemorial usage, and which have become a kind of common law on the subject. It can, however, after its organization, adopt special rules for its own government, modifying or even changing the common law. But, in cases not provided for by these special rules, it must be governed by the general code.

28. General parliamentary law is derived from the practice of the British Parliament, modified somewhat by congressional and legislative bodies in this country, partly, because of the difference of our institutions, and, partly, because experience has suggested improvements on the English method. (For the difference in the code in England and in America, see Chap. II.)

29. Congress and the State legislatures have special rules modifying the parliamentary law of this country; but they are all alike essentially governed by the common code. In those respects in which these bodies differ from one another on account of special rules, they are not models to be imitated by such assemblies as have not as yet formally adopted any rules. Care should be taken, therefore, not to apply to such a body the special rules of a State legislature, merely because it happens to meet within the bounds of a State; nor those of Congress merely because it happens to meet in the District of Columbia. General parliamentary law is the only code possessing supremacy over an assembly having no rules of its own. What general parliamentary law is will be shown hereafter in detail.

30. Every assembly can adopt rules for its own government; but none in this country can ordain rules for its successor. The authority of the rules expires with the session; and if they are operative in a succeeding body it is by virtue of a special vote adopting them.

SECT. VII.—OF THE MANNER OF TRANSACTING BUSINESS.

31. An assembly expresses its opinion, judgment, or will by *orders* or *resolutions*. "When it commands, it is by an order. But facts, principles, its own opinions and purposes are expressed in the form of resolutions." A *vote* is the method by which results are attained in any case. Whatever form, however, the question may assume, the mode of proceeding is always the same.

32. The assembly being organized, it is competent for any member to move an order or resolution. This being seconded and stated from the chair, becomes in possession of the assembly, to be adopted, modified, postponed, rejected, or suppressed, according to its pleasure.

33. Questions are always decided by a majority of the votes when there is no rule to the contrary. Sometimes, however, by special rule, a number greater than a majority is required, and at other times a number less will suffice. Some propositions, to be carried, demand a unanimous vote. Examples of these various kinds will arise as we proceed. In the case of a tie vote, in most assemblies, a casting vote is given by the presiding officer. But he may decline to vote; in that event the proposition fails, on the principle that every measure, to be carried, requires the vote of a majority.

CHAPTER II.

GENERAL PARLIAMENTARY LAW.

34. General parliamentary law is the code by which all deliberative bodies are governed until they establish a code of their own. The basis of this is found in

the practice of the British Parliament. Commencing in early times with a few first principles, a system has gradually grown up, tested by experience, and sanctioned by long usage. Forms of question were invented, and modes of proceeding adopted, according as the operations of parliament became more complicated, until there exists a list adequate to all the wants of a deliberative body to enable it to dispose satisfactorily of all propositions submitted to it.

35. But a distinction is to be made between parliamentary law and the rules of proceeding in the English Parliament. Every legislative body finds it necessary to adopt special rules adapted to its genius and its circumstances. Such rules the English Parliament also has adopted in the form of "orders" — standing, sessional, and occasional. While then an occasional assembly, meeting in Great Britain, would be under parliamentary law, it need not be subject to the rules and orders of the British Parliament.

36. But specifically, what is meant by general parliamentary law? There are certain (1) *general principles*, (2) *forms of proceeding*, and (3) *forms of question*, of universal application, by which all assemblies are, in some degree, essentially controlled. These constitute the general parliamentary code. (1) The *general principles* are such as these: The members of every assembly are on terms of equality; an assembly must be organized by the appointment of a presiding and a recording officer; the officers are the servants and the instruments of the assembly; questions are decided by a concurring vote of the majority; members are not to violate decorum, etc., etc. (2) The *forms of proceeding* are such as point out the manner in which subjects are to be introduced, and the forms propositions are to assume, — *i. e.*, whether they are to be in the shape of bills, or orders, or resolutions, or simple motions; the way in which a member may exert his influence for or against a proposition, — as by debate, and by moving questions to modify, suppress or defeat it; the manner in which the question is to be

put to the assembly, — *i. e.*, by the presiding officer in a particular way, etc., etc. (3) *Forms of question*, of universal application, are such as are adapted to perfect, to defer and to suppress propositions, — such as motions to amend, to postpone, to prequestion, etc. All such forms of question as are provided in general parliamentary law are applicable to all assemblies, according as circumstances may call for their use; and none can be moved excepting such as are contained in the general code. For instance, there is no such form of question in the list as the motion to "substitute." Consequently, a motion in this form must be construed into a motion to "amend," by striking out all after the enacting clause, or after the word *Resolved*, and inserting; and this motion is subject to all the rules operative in the case of any other motion to amend. It is chiefly in regard to the regulation of these forms of question by rule that deliberative bodies differ from each other.

37. It will be seen, on investigation, that there has grown up in this country a system of general parliamentary law differing in important particulars from the English code. To specify some points: In England, the motion to amend is of the same grade with the motions to postpone, and for the previous question; and if first moved, cannot be suppressed by them; — in this country, no assembly hesitates to entertain a motion to postpone or for the previous question while an amendment is pending. Again, in England, one parliament can bind its successor by what it calls standing orders; in this country, no assembly can establish rules for its successor, but, by universal usage, each assembly adopts for itself its own rules. The motion to *reconsider* is in universal vogue in this country, but is not known in England. The call for the yeas and nays also, so common in American legislative bodies, is unknown in the English parliament; and — not to name any more — the previous question, and the intention with which it is moved, are different in the two coun-

tries. In England it is moved by those who desire to get a decision in the negative; in this country, by those who wish it decided in the affirmative.

38. It will be seen then, that there is an English code and an American code, similar in the main, but differing in some important particulars. This manual is based upon the American code; and it is an attempt to develop in detail its principles.

CHAPTER III.

OF THE OFFICERS.

39. As a general thing, deliberative bodies elect their own officers. The Senate of the United States, and the House of Peers in England, are exceptions. In the former, the Vice-President of the Republic, and in the latter, the Lord Chancellor, by virtue of their offices, are the presidents respectively. The clerk to the House of Commons, also, is not elected by the body, but appointed by the Crown. But where the officers are appointed by the suffrages of the assembly, a majority vote is necessary to their election. This is based upon the fact that the body can at any time turn the incumbents out of office; and, if they are elected by a mere plurality, they may not be able to hold office for any length of time. Besides, to be influential, they must have the confidence of those whom they serve, which would not be the case if less than one-half of the assembly desired them for the positions.

SECT. I. — THE PRESIDING OFFICER; HIS QUALIFICATIONS; THE PRINCIPLES ON WHICH HE SHOULD PROCEED; AND HIS DUTIES.

40. No one should accept of the position of presiding officer unless he possesses the mental characteristics,

and the knowledge of parliamentary science, which will qualify him for the efficient discharge of the duties of the office. Any one without these qualifications, jeopards the dignity of the body and his own reputation, by acceptance of office.

41. The dignity of a deliberative body depends more upon its presiding officer than upon all else besides. It may be laid down as a rule admitting of no exceptions, that, with an incompetent presiding officer, a body will be disorderly in proportion to its intelligence. With such bodies, questions will be sure to become complicated; and the members detecting the mistakes of the chair, and perceiving the disastrous influence of his decisions upon the measures they support, will be certain to make the attempt to correct him. All contested points of order before a presiding officer who does not know what order is, will be sure to produce confusion worse confounded.

42. The mental characteristics necessary to a good presiding officer are, quickness of apprehension, powers of discrimination, decision and firmness, coolness and self-possession, disinterestedness, reverence for authority, and a familiarity with the *principles* of parliamentary science, as well as the decisions which have been made under it. He who attempts to conduct proceedings by routine and by rote, and is not able to refer each case that arises promptly to its appropriate principle, will be certain to be subjected to mortification and disgrace.

43. He should thoroughly recognize the principle, and unvaryingly act upon it, that all the members of the body over which he presides are of equal grade, and have equal rights. This does not mean that he is to consider them as possessing equal capacity, but only an equality of rights. When work is to be done, and it is his province to designate individuals to perform it, he will, of course, be influenced by the question of capacity and qualification; but in admitting claims upon the floor, he should make no distinction among the members. In constituting committees, he should

take care to distribute appointments to as great an extent among the members as possible consistently with efficiency. Nothing more than this tends to give him a hold upon the confidence of the body: first, because he thus makes it appear that he is not governed by favoritism; and, second, because there is a delicate compliment, which will be felt, conferred upon all thus appointed. Nothing so certainly, and so deservedly, weakens the influence of a presiding officer as the limiting his appointments to favorites or to cliques. That officer is the most successful who, after preserving the rules and maintaining the dignity of the body, so manages as to enable the assembly to transact its business satisfactorily in the way it desires; and to afford to each member the opportunity to impress himself upon the assembly in the way suited to his ability, his judgment, and his taste. For matters of taste and judgment do not come within the purview of the president. His jurisdiction is limited to questions of order; and if it is in accordance with the judgment and taste of individual members even to make themselves ridiculous,—so that they do so under the forms of order,—he is not responsible, and has no right to interfere.

44. Every presiding officer should have such respect for the body over which he has the honor to preside as to have confidence that it is able to transact its own business without assistance from him in any other way than by the preservation of order. It is an outrage for him to intimate from the chair approbation or disapprobation of any measure under consideration, other than those affecting order. No one should be able to infer from anything said or done what are the opinions of the chair in regard to any pending measure. Just so soon as he can be classed as favoring one side or the other, he ceases to be a disinterested umpire, and becomes suspected as a partisan. In such a case, his influence is immediately destroyed, and ought to be. It is true that, in theory, he can leave the chair and take the floor, and, like any other member, speak in

favor of or against a pending measure; but none but extreme cases would justify him in doing so. And it would be better for him and for the assembly were he to pertinaciously act upon the resolution never, whatever may be the temptation, to leave the chair in order to occupy the floor. This, of course, is limited to general measures; on questions of order he may speak, and is often in duty bound to do so.

45. These principles hold good in the case of a pastor who acts as moderator of a church. He is to make a wide distinction between the pulpit and the chair. In the former, he may discuss at pleasure all subjects which relate directly or indirectly to the gospel; and may communicate to the church and congregation any instruction he may deem profitable; but in the latter, he is but the presiding officer of a deliberative body that is, or ought to be, able to transact its own business. It must be admitted though, and claimed, that on some subjects, he may have to act not only in the capacity of Moderator, but in that of Pastor also. On questions, if any, that are to be decided by the concurrent voice of church and pastor, the latter of course has a right to express an opinion, and to exert an influence. Such cases, though, are rare, and well defined. In all other questions, the pastor is simply the presiding officer; and if he dictates to the church on any matter out of the domains of order, he is guilty of usurpation. Such a course will certainly weaken his influence; and, if persisted in, ultimately destroy it.

46. It is the duty of the presiding officer: to take the chair promptly at the appointed time and call the assembly to order; to announce the business in the order in which it is to be acted on; to entertain all propositions made in order, and submit them to the assembly; to put to the vote all questions which properly arise; to enforce order and decorum in debate; to decide promptly all questions of order; to give the floor to the one entitled to it, when two or more rise

and claim it about the same time; to give the assembly, when referred to, information on points of order; to receive and announce to the assembly all communications properly addressed to it; and, in general, to see that all business is brought in and conducted in proper order.

SECT. II. — OF THE RECORDING OFFICER.

47. The Secretary requires, as the qualifications of his office, quickness of apprehension, diligence, and the ability to express his ideas readily, intelligibly, and accurately, in writing.

48. It is his duty to make true records of all the proceedings of the assembly. This relates only to measures voted upon. Matters merely proposed, on which no final action has been taken, he is not to record. "He is to enter what is done and past, but not what is said or moved. This is the rule in legislative assemblies. In others, though the spirit of the rules ought to be observed, it is generally expected of the secretary that his record shall be both a journal and, in some sort, a report of the proceedings."

49. It is the duty of the secretary to read all papers ordered by the assembly to be read; to call the roll whenever inquiry is to be made in regard to the presence of the members, and whenever a question is decided by the yeas and nays; to preserve on file all documents and papers belonging to the assembly, and on no account to suffer them to pass out of his hands; to furnish the chairman of every committee with a list of all the names appointed on it, with a statement of the subject referred to it; and to authenticate with his signature (sometimes in conjunction with the president) all the acts, orders, and proceedings of the assembly. The secretary, in reading and in calling the roll, invariably stands.

50. Where two or more secretaries are appointed, the first-named acts as chief officer. The recording officer, when a member of the assembly, has all the

rights and privileges of other members. He can make motions, engage in debate, and in all other respects take part in the proceedings as other members.

CHAPTER IV.

MANNER OF PROCEEDING.

51. The topics which engage the attention of a deliberative body are brought to its notice either by communications from authorized external sources, or from the suggestions of its own members.

52. The principal forms or instruments used by an assembly for disposing of topics, are motions, resolutions, and orders.

53. A *motion* is a proposition made by one member and seconded by another to do something, to order something, or to express its opinion in regard to something. When adopted, it becomes the order or resolution of the assembly. Without a motion, nothing can be set in operation, and by motions everything is made to progress to the end.

54. "When the house commands, it is by an 'order.' But facts, principles, their own opinions and purposes, are expressed in the form of resolutions." JEFFERSON. When an assembly directs anything to be done by its officers or members, it expresses itself in the form of an *order;* but when it indicates its determination to do anything itself, it expresses itself in the form of a *resolution.* Thus: it *orders* such a document to be printed, or that a debate be adjourned; it *resolves* that a bill do pass, and resolves itself into a committee of the whole. But resolutions of this kind must be distinguished from resolutions properly so called; and "order," in the sense above, from orders in the sense of *rules.* and from orders of the day.

55. When a member wishes to obtain the vote of the assembly in reference to any matters of opinion or of expediency, he submits his proposition in the form of a resolution, etc., and moves its adoption.

SECT. I.—OF OBTAINING THE FLOOR.

56. A member wishing to gain the attention of the assembly to anything he desires to present, must first, as it is technically termed, obtain the floor. This he does by rising and addressing the presiding officer by his title, as, "Mr. (or Bro.) President." If he secures the recognition of the chair, he is said to have obtained the floor.

57. If two or more rise about the same time, he is entitled to the floor who was the first up, and the first to address the chair. But it is not always easy for the presiding officer to decide with accuracy, as it may not be in his power to see all parts of the room at the same time. Nothing is left then but for him to give the floor to the one who appeared to him to be the first to rise. The decision of the chair is usually acquiesced in when that officer has a reputation for impartiality. But the rule in the case is, that the first up is entitled to the floor; and if, through inadvertency or wilfully, any one is deprived of his right, it is competent for the assembly to interpose and remedy the wrong. In that case, the question is to be put to the vote as to who rose first. When this is done, the vote is to be taken first upon the name of the member recognized by the chair.

58. Members sometimes intimate to the chair in advance that they would like to have the floor after the one occupying it shall yield; and think they are treated with neglect if the presiding officer do not call out their names, even though they make no legitimate effort to obtain the floor. This is unreasonable and absurd. The chair can call out the name of no one excepting in response to an address to himself by

one standing on his feet. Besides, these intimations, given in advance, either by word or gesture, are themselves disorderly, and should always be disregarded by the chair. In like manner should one's claims be disregarded who rises before the one speaking has finished. All such conduct is disorderly, and should prejudice rather than advance a member's claims.

59. When one has once obtained the floor, the general rule is that he cannot be deprived of it so long as he does not violate order. He may voluntarily yield it to another, or give way to a motion to adjourn, or waive his right because he detects and respects impatience manifested by the assembly; but he cannot be forced to relinquish it. This rule, though, admits of exceptions, when the measure on which the member is speaking ceases to be in order by the lapse of time, or when the time has arrived for an order of the day.

60. Members sometimes permit others to interrupt them, to explain, and otherwise to address the house, claiming still that they have the floor. This is liable to great abuse; for, in this way, members may usurp the prerogatives of the chair, and manage to give their party friends the use of the floor to the exclusion of all others. Such compacts should not be recognized by the chair; and he should rule that the floor given up for one purpose of the kind is relinquished for all.

61. But while it is the duty of the presiding officer to protect every one in his right to the floor, he may —indeed, is in duty bound to do so—give the floor temporarily to any one who interrupts, and addresses himself to the chair—at least, long enough to ascertain his object. He may have risen to a point of order, or to a question of privilege, which cannot be made known unless he is recognized by the chair. When, in the one case, the point of order is decided in favor of the one addressing the house, or, in the other, the question of privilege is disposed of, the one temporarily interrupted resumes the floor. When a member rises to interrupt, he should always state in advance that he

rises to a question of order or of privilege. And having obtained the floor, he is at liberty to use it for no other purpose than for that indicated when he claimed it.

SECT. II.—ON MOTIONS.

62. Whenever a member wishes to get the sense or decision of the body on any proposition, and, for that purpose, moves a resolution, he is said to make a motion. But legislative bodies distinguish between a resolution and a motion. The former contains matter of importance, and, after being read by the clerk, requires a motion to proceed to a second reading: the latter is of minor character, and relates to the order of taking up business, and such like minor matters, and does not require a second reading. It is proper, however, to say, "move a resolution;" for he who offers one for the consideration of the assembly, virtually moves its adoption; though, in presenting it, he need not use the word move or motion. The usual form is, "Mr. President, I beg leave to offer the following resolution."

63. No motion, whatever form it may assume, is to be entertained unless it is seconded. The reason is that the time of an assembly is not to be consumed by any proposition that may not have more than one advocate. This rule has exceptions, when the motion is to carry into effect the pre-existing orders or resolutions of the assembly. This is not, however, so much a motion as a demand that the rules and orders of the house should be carried into effect. This, one member has the right to do.

64. All motions must be submitted to writing, on the demand of the presiding officer or of any one member. It is unusual though, and unnecessary to demand, that those should be put in writing which are used for the purpose of disposing of other motions and questions; as, the motion to lay on the table; to adjourn; for the previous question, etc.

65. No motion is in order which is substantially the

same as one the assembly has disposed of already, or is holding under advisement,—having laid it on the table, or referred it to a committee. The same principle holds good when the motion is inconsistent with one already adopted. The only way in which the mover can reach in order the object he has in view is, in the latter case, to move first to reconsider the action already taken; and, in the former, to wait until the matter is again before the assembly, and then move his proposition as an amendment.

66. A member can make but one motion at a time. The contrary has been allowed in Congress, and has grown to be a common usage; as, when a member makes a motion, and then moves in the same breath that his own motion be laid on the table. This is a great abuse; and the bad example of Congress should not be followed by other assemblies. In such a case, the presiding officer should entertain the former motion, and treat the latter as if it had not been made.

67. A motion made can be withdrawn by the mover at any time before a decision or amendment by the assembly.* After amendment,—*i. e.*, after a vote on an amendment offered to it,—it can be withdrawn only by consent of the assembly. The vote of a majority will suffice to give this consent. On the same principles, the mover can modify the phraseology of his proposition at any time before a vote is taken on it or on an amendment proposed to it.

68. An assembly can have before it but one thing at a time. It is a rule, therefore, that when a motion has been made, and stated by the chair, it cannot be dis-

* This is according to general parliamentary law in this country. Some of our manuals, governed by the English usage, lay it down that it passes beyond the control of the mover as soon as it is stated by the chair; and others, again, that it cannot be withdrawn after any one has spoken on it. But there is no satisfactory principle upon which this can be based; for, according to their own doctrine, any one can renew it again after the assembly has, by vote, permitted its withdrawal. And, if this last be true, how unreasonable is the statement that leave to withdraw requires universal consent.

placed by any other motion proposing new business. But a principal motion may be suspended for the time by those that may be termed, in a general sense, privileged questions,—such as are designed to dispose of the principal question; or arise incidentally out of it; or are incidental to the course of business, or that relate to the rights or privileges of the assembly or any of its members. When these are decided, the main motion revives again, unless by the decision of any of them it has been disposed of.

SECT. III.—OF QUESTIONS, AND THE MANNER IN WHICH THEY ARE PUT TO THE VOTE.

69. When a proposition is presented to an assembly, as has been said, it is by a *motion*. When it is stated by the chair, it becomes a *question;* because it is to be answered in the affirmative or negative. When the question is decided by the assembly, it is by a *vote*.

70. The usual method of stating the question is as follows: The presiding officer rises, and says: "It has been moved and seconded," (here he repeats the words of the motion). If a resolution has been moved, it is handed to the secretary, and by him read; the chair prefacing the reading by words to the following effect: "The question will be on the motion to adopt the resolution now to be read by the secretary." If he prefers it, the presiding officer can read the resolution himself. Until the question has been stated by the chair, it is not in order to speak on the motion. When the assembly is ready for the question, the chair puts it to the vote as follows: After repeating, "The question is on the motion to," &c.; or, "on the motion to adopt the following resolution,"—(here he reads the resolution again, or requires the secretary to do so, and adds,)—"As many as are in favor of the motion (or of the adoption of the resolution) will say, Aye." When those in the affirmative shall have responded, he puts the negative, also: "Those of a contrary mind will say, No."

71. The question is decided, in the first instance, by the voices. If the presiding officer is satisfied, by the sound, of the result of the vote, he announces: "The ayes have it;" or, "The noes have it;" or, "It is decided in the affirmative;" or, "It is decided in the negative." If he is not exactly satisfied himself, or wishes to afford members an opportunity to test it in a more definite way, he says: "The ayes" (or noes, as the case may be) "seem to have it, unless you call for a division." If, after pausing a moment, no one calls for a division, he announces: "The ayes have it;" or, "The noes have it."

72. If any one member calls for a division, it must be ordered by the chair. For this purpose, he will say: "A division is called for. All in favor of the proposition will signify it by rising. Remain standing until you are counted." After the number in the affirmative has been announced by the tellers to the chair, and by him to the assembly, the presiding officer will say: "Reverse your positions. All opposed to the proposition will signify it by rising." The number voting in the negative also will be announced by the chair, and the result declared.

73. Legislative bodies, and others also, should they be large, appoint two or four tellers,—an equal number from each side of the question. When there are two recording officers, in assemblies generally that are not legislative, they can usually act as tellers in every case.

74. When the assembly is not very large, the members can be counted as they stand. But when the numbers are very great, and it is, in consequence, difficult to count with accuracy, it is usual for the tellers to take their position in front of the president's chair, and to count the members as they pass between them, one at a time. In such a case, the words used by the chair will vary according to the circumstances.

75. Should any questions of order or of privilege arise during a division, they must be decided by the chair peremptorily, subject to be reversed by the as-

sembly after the division is over. Otherwise, there may occur a division upon a division. Should the chair be in doubt, and seek the advice of experienced members, it must be given by the members sitting, and, in legislative bodies, with their hats on, to avoid the appearance of debate.

76. Another way of taking the question is by the yeas and nays. For an explanation of this, see the Appendix.

CHAPTER V.

OF THE VARIOUS CHANGES MEASURES MAY UNDERGO; OF THE FORMS OF QUESTION INVENTED TO EFFECT THOSE CHANGES; AND OF THE QUESTIONS INCIDENTAL TO, AND GROWING OUT OF THESE QUESTIONS.

77. Propositions may strike an assembly in various ways. *First*, Some may seem unprofitable, or productive of embarrassment, should they be discussed or voted on directly. These an assembly would like to suppress. For this purpose have been invented the forms of question — the *previous question*, and *indefinite postponement*. The former is effective to suppress debate and all appendages to a main motion; the latter to evade a direct vote on the question. *Second*, The proposition may seem meritorious, but may be in such a crude state as to make it difficult for a large assembly to reduce it with convenience to a proper form. To meet this case, the assembly can *refer it to a committee*. *Third*, The proposition may meet with favor, but there may be other things claiming immediate attention, or the assembly may desire time to obtain information on it. To defer it for the present, therefore, they have the forms of question — *to lie on the table;* or *to postpone to a time definite*. *Fourth*, They may be favorable to a

proposition in the main, but dissatisfied with certain particulars that can be easily changed in the assembly. In this case, they entertain the proposition, and proceed to perfect it by *amendments*. These questions directly affect the principal motion, and are therefore called *subsidiary* or *secondary questions*. The following then is the list of subsidiary or secondary questions: (1) to lie on the table; (2) to postpone to a time definite; (3) for the previous question; (4) to postpone indefinitely; (5) to commit; (6) to amend. To this list, for want of a better place, may be added, (7) the motion to reconsider — a form of question peculiar to this country.

78. During proceedings on principal or on subsidiary motions, questions may arise incidental to them. *First*, Exceptions may be taken to the manner or order of proceeding. These give rise to *questions of order*. *Second*, It may be thought important at any stage of proceedings to have a document read that bears upon the question. This gives occasion to the *motion to read papers*. *Third*, The mover of a proposition may have changed his mind, and may desire to remove it from before the assembly after it has been voted on. For this he can ask *leave to withdraw his motion*. *Fourth*, There may exist a rule which prevents the assembly from entertaining a proposition or from prosecuting it in the way it then desires. To meet this case, a motion to *suspend the rule* is in order. The *incidental questions* then are: (1) questions of order; (2) motions for the reading of papers; (3) leave to withdraw a motion; and (4) suspension of a rule. Incidental questions take precedence of a principal motion, and of those of the subsidiary questions out of which they grow. Some of these questions merely supersede the main motion for a time, and, when decided, leave it as it was before; as, *e. g.*, motions for the reading of papers, and some questions of order. Some of them supersede the main motion until they are decided, and, when decided one way, dispose of it entirely; as, *e. g.*, when leave is granted to withdraw, or when, on a point being

raised, it is decided that the main motion is out of order. If they are decided in another way, they leave the main motion in the condition it was in, when it was arrested by the incidental question.

79. But there are circumstances in which an assembly may be placed which render it indispensable that there should be forms of question paramount to all others. *First*, The assembly may be exhausted by long attention to business, and needs a method by which to obtain relief. For this purpose, it needs the motion to *adjourn*. *Second*, It may wish to set apart a particular time for a particular subject. This it does by what it calls *orders of the day*. *Third*, Its meetings may be disturbed by the intrusion of strangers, or by rencounters among its own members; or the rights and privileges of its individual members may be infringed. This gives rise to motions relating to rights and *privileges*. These three forms, because they take precedence of all other questions, are called *privileged questions*. The last is distinguished from the first two by the distinctive title, *questions of privilege*.

80. It will be seen then that of questions that can supersede principal motions, there are three classes:

I. *Subsidiary Questions:* Lie on the table; Postpone to a time definite; Previous Question; Postponement indefinite; Commitment; and Amendment. To this list let there be added the Motion to Reconsider.

II. *Incidental Questions:* Questions of Order; Reading of Papers; Withdrawal of a Motion; Suspension of a Rule.

III. *Privileged Questions:* Adjournment; Questions of Privilege; and Orders of the day.

81. The following may be given as an example of the way in which questions may accumulate by superseding and suspending one another for the time. (1) There is a principal motion pending; (2) a motion is made to amend; (3) another motion is made to amend the amendment; (4) a proposition is made to commit;

(5) a point of order is raised; (6) a question of privilege is raised; (7) it is moved to adjourn. The proper mode of proceeding in such a case is to put the question first on the motion to adjourn. If that be decided in the negative, then to settle the question of privilege; after that decide the point of order; then, to put the question on the motion to commit. If the assembly refuse to commit, the questions are to be taken on the amendments in the reverse order, and finally on the principal motion amended or unamended.

CHAPTER VI.

SUBSIDIARY QUESTIONS.

82. As has been said, subsidiary or secondary questions are those which are used to dispose of the main motion either permanently or temporarily, in the manner desired by the assembly. These questions are designed to postpone, to suppress, to commit, or to amend.

SECT. I. — MOTIONS TO POSTPONE.

83. There are two forms of motion to effect the postponement of a question: the motion to *lie on the table;* and the motion to *postpone to a time definite.* While these are alike in the fact that each effects a removal of the question temporarily from before the assembly, they differ in grade, and somewhat also as to the occasions on which they are moved, and in regard to the influence exercised on the questions thus removed. The motion to postpone to a time definite within the session is usually, if not always, made by the friends of the proposition; and is induced by the desire to obtain information, or to secure a larger attendance of the members, or a longer time for its consideration:

the motion to lie on the table is as often made by the enemies as by the friends of the measure; and may be employed not only to give way to a measure of more pressing importance, but to get rid of the proposition altogether. A proposition postponed to a time definite, becomes a privileged question for that time: a proposition laid on the table remains there until called up, on motion, by the vote of a majority. A motion to lie on the table is of higher grade than a motion to postpone to a time definite; and the former can suppress the latter.

1.— *To Lie on the Table.*

84. The motion to lie on the table takes precedence of all other subsidiary questions. But it is subordinate to all three of the privileged questions: viz., to adjourn; for the orders of the day; and questions of privilege. This is according to the general parliamentary code. In Congress, by special rule, it is subordinate only to the motion to adjourn.

85. If the motion to lie on the table be decided in the affirmative, it removes from the assembly the principal motion together with all the subsidiary and incidental motions attached to it at the time. When the proposition is again taken from the table, it revives and stands in the exact form, and with all the appendages pertaining to it at the time the motion to lie on the table prevailed.

86. If decided in the negative, it may be renewed whenever new business intervenes, or when the matter has progressed so far as in effect to become a new proposition. If decided in the negative, the business proceeds as if the motion had not been made.

87. It is in order to move to take the subject from the table at any time; and, should the motion be decided in the negative, to renew it again and again, provided any business has intervened between the votes.

88. This motion is sometimes used abusively, and

made to perform the office of the previous question and indefinite postponement combined; since the same majority that lays a proposition on the table can keep it there permanently. This is to pervert it from its legitimate use, and make it a motion to suppress instead of one to postpone a proposition. Nothing can be legitimately laid on the table excepting what can be taken up again. Hence the usage in Congress is disorderly and abusive which allows a member, when an appeal is taken from the decision of the speaker, to move that the appeal do lie on the table.

89. This motion is not debatable, and is not subject to amendment.

In the United States House of Representatives, April 16, 1852, the Report of the Committee on Printing being under consideration, ... "Mr. Gorman having concluded the debate. Mr. Polk moved that the whole subject be laid on the table. Mr. Howard made the point of order, that, inasmuch as the character of the question was unchanged since a similar motion had been made and voted down, it was not in order at this time to submit the motion. The speaker stated, that since the former motion to lay on the table, there had not only been intervening motions, but further debate; he therefore overruled the point of order. From this decision of the chair, Mr. Howard appealed; when, on motion of Mr. Stanley, it was ordered that the appeal be laid on the table. So the decision of the chair was sustained."

January 27, 1853. "Mr. Stanley moved that the said bill be committed to the Committee of the Whole House on the state of the Union, and printed; pending which, Mr. Sweetser moved that the bill be laid on the table; and the question being put, it was decided in the affirmative. So the bill was laid on the table. Mr. Stanley having called up the motion submitted by him, to print the bill, the speaker decided that the effect of the vote to lay the bill on the table had been to lay upon the table the motion to print, and all other motions connected therewith; it was too late, therefore, to call up the motion to print. From this decision of the chair Mr. Stanley appealed; when, on motion of Mr. Orr, the appeal was laid on the table," etc.

2. *Postpone to a Time Definite.*

90. As has been said, a motion to postpone to a time definite is subordinate to a motion to lie on the table, and may be suppressed by it; but it is of the same grade with all the other subsidiary motions, excepting

that to amend, to which it is superior, and cannot be suppressed by them.

91. Its effect, when decided in the affirmative, is to remove the subject from before the assembly until the time designated; and to make it a privileged question for that time. If decided in the negative, it leaves the question before the assembly as it was before the motion was made; and it cannot be moved a second time.

92. It is susceptible of amendment. It may be moved to substitute one day for another. In this case, the time may be considered a blank; and the chair should treat propositions as he would those to fill blanks. (*See par.* 140.)

93. On a motion to postpone to a time definite, it is not in order to speak to the merits of the question thus proposed to be postponed. It will not be out of order, though, to speak strictly to the proposition to postpone, and to show why one time is preferred to another. The chair should hold speakers rigidly to these points. In Congress, *all* debate is interdicted.

94. This motion is sometimes abusively made by designating a day known to be beyond the session. It becomes then a motion to suppress, and should be treated by the chair as though it had been the motion for indefinite postponement.

SECT. II. — OF MOTIONS TO SUPPRESS.

95. It sometimes happens that propositions are made, the discussion of which would have an injurious effect, or to vote on which, either for or against, would needlessly embarrass members. It may be, also, that a principal motion may be acceptable while its appendages may be objectionable. Assemblies, therefore, need forms of question which will enable them, if they deem it expedient, to suppress discussion; to evade a direct vote on the merits of a question; and to cut off all proposed amendments, and obtain a vote directly on the main question. To suppress discussion, and to

bring on a direct vote on the main question, they use the previous question; to evade a direct vote on the merits of the question, they use indefinite postponement.

1. *Previous Question.*

96. This question has undergone so many changes since it was first introduced, that some discrimination is necessary to obtain a clear conception of it. There are, in fact, three distinct significations to it as it is interpreted by three distinct systems. *First.* The previous question of the English parliamentary law is one thing; *second.* The previous question of the American parliamentary law is another thing; and *third.* The previous question of congressional rule is another thing still. They all have the same form or words to the question, viz., "Shall the main question be now put?" but they each attach their own and a distinct signification to it.

First. In the English Parliament, the question is designed to suppress a principal motion,—*i. e.*, to remove it from before the house, and to prevent debate upon it. These are, and always have been, the sole intentions of it. At first, it was in the form, "Shall the main question be put?" and it was moved to secure a vote in the negative. If decided thus, it removed the main question from the house for the remainder of the session. Subsequently, it was changed to the form it now bears: "Shall the main question be now put?" and, if carried according to the wishes of its mover, it suppressed the main question for the remainder of the day. If, contrary to the wishes of the mover, it be decided in the affirmative, he will have accomplished but a part of his object, viz., to cut off debate; and the main question will have to be put without any further delay. Another peculiarity of this question, under English parliamentary law, is, that it cannot be moved when a motion to amend is pending. Under this system, then, the previous question is moved by the

opponents of the principal motion; and is designed to cut off debate, and to exclude the main question from the house without a direct vote on it.

Second. In American parliamentary law, the parties who make the motion, and the end sought to be accomplished by it, are diametrically opposed to the same under the English code. There, the mover is the enemy; here, the friend, to the main question. There, the object sought is to exclude the proposition from the house; here, it is not only to retain it, but to secure its passage. Besides, in America, the previous question can be applied to the main question with, or without, amendment pending. The effect, then, here of the previous question is to stop debate, and to cut off all amendments, if any are pending, and to bring the assembly to vote at once and directly on the main question.

Third. The previous question of Congressional rule. This is simply an expedient to prevent, or stop, debate, and to bring the house to vote on pending questions in the order in which they stood before the previous question was moved.

This Manual is based upon American parliamentary law; and what follows is designed to illustrate the previous question under it.

The Previous Question, under American Parliamentary Law.

97. Why is this called "the previous question"? The answer will be suggested in this and the two following paragraphs. *All* subsidiary questions are "previous" to the principal question,—*i. e.*, they are to be answered in the affirmative or negative previously to the submission of the principal motion; but, though essentially no more previous than they, this has happened to monopolize that term as a distinctive title, and goes by the name of *the* previous question.

98. It will be remembered that a motion, when stated

by the chair to the house, becomes a question because it then assumes a form in which it can be answered by Yes, or No. Now, the principal motion, already stated by the chair, is itself a question; and when on motion he puts in advance the question, "Shall the main question be now put?" we have two questions, the latter of which takes precedence of the former, and must be put to the vote first. It is called a "question," then, because it is in a form in which it can be answered by Yes, or No; and, "previous," because, if moved, it must be answered before the main question is.

99. But before the previous question can itself be put, there is another question still previous to *it*, which the chair must put to the assembly, and get it answered in the affirmative,—viz.: "Shall the call for the previous question be seconded?" So that, in all applications of the previous question, there are in reality three questions that must be put to the house, provided that the first two be answered in the affirmative: *First.* "Shall the call for the previous question be seconded?" *Second.* "Shall the main question be now put?" *Third.* "Shall the principal motion be adopted by the house?"

100. The previous question has supremacy over a motion to amend, and can suppress it; but it is subordinate to a motion to lie on the table. It is of the same grade with the other subsidiary questions, viz.: to postpone and to commit; and, when either of them is pending, it is not in order to move it.

101. It is not debatable, and not liable to amendment. When decided in the affirmative, it requires the main question to be immediately put, unless proceedings are stopped for the time by a motion to lie on the table, or to adjourn. If it is decided in the negative,—viz., that the main question shall not now be put, it leaves the main question as it was before it was moved; and the debate and proceedings are continued on it as before. This is in accordance with the general American code. In Congress, if decided in the

negative, it removes the main question from before the house for that day.

102. The main question is in all cases, in bodies not legislative, the original motion with all amendments cut off, excepting those already adopted.

103. Originally, the call for the previous question was seconded by a vote of one-fifth of the members. Now, it requires a majority to second the call.

104. The use of the previous question, then, in all assemblies under American parliamentary law, is, *first*, to stop debate; and, *second*, to cut off all amendments that may be pending, and bring the body at once and exclusively to vote on the original proposition, in its then condition, amended or unamended. While, then, in England, its use is to suppress a main question, in this country it has been so changed, perhaps perverted, that if it suppresses anything besides debate, it is only the appendages to a main question.

105. The following may be given as a method of proceeding when the call for the previous question is moved: The presiding officer will rise and say, "A call is made for the previous question, shall the call be seconded? All in favor of seconding the call, will say, aye." He will put the negative also. If a majority sustain the call, he will put the second question, "Shall the main question be now put? all in favor say, aye." If, in the intervals between these votes, it be moved to lie on the table, or to adjourn, the chair must put these questions in the order of their precedence, unless the motion to adjourn be decided affirmatively. If both be decided in the negative, he is to take up the previous question at the place where proceedings were interrupted. Should the motion to adjourn prevail, when the subject comes before the assembly again, the chair is to take it up at the place at which it was interrupted by the motion to adjourn. The same holds good should it be laid on the table. When it is again taken from the table, it must be resumed and carried on as it would have been had no

interruption taken place. The main question must be put without further delay or debate.

In the U. S. House of Representatives, March 29th, 1854, "The house was then divided on seconding the call for the previous question; and there were — ayes 66, noes 64. So there was a second. The question then recurred on ordering the main question to be put. — Mr. DAVIS, of Rhode Island. 'I demand the yeas and nays.' The yeas and nays were not ordered. The main question was then ordered to be put. The question now being on the adoption of the resolution, Mr. WASHBURN, of Illinois, moved to lay the resolution on the table, and upon that motion, demanded the yeas and nays. The yeas and nays were ordered. The question was then put; and it was decided in the negative, — yeas 63, nays 94. So the house refused to lay the resolution on the table. The question recurred on the adoption of the resolution; and being put, it was decided in the affirmative. So the resolution was adopted." *

106. This question, like the motion to lie on the table, has been perverted by Congress into an engine of oppression in the hands of a majority. In that body, it is allowed a member to make a motion, and follow it immediately, in the same breath, by the call for the previous question. This is out of order, and oppressive, and should not be tolerated by the presiding officer. The principle should be rigidly maintained that a member can make but one motion at a time; and his call for the previous question, in the circumstances, should always be disregarded and ignored. The previous question, under congressional usage, is the engine of the tyrant, and inconsistent with institutions that claim to be republican. The previous question under American parliamentary law is less exceptionable; but even it should be restricted to the narrowest limits possible.

107. This question, under the American code, is not only ruled out by all the privileged questions, and by other subsidiary questions, on the conditions mentioned in paragraph 100, but at least in one case, where none of these questions are pending, it is excluded by the very principles of its own nature. It cannot, *e. g.*, be applied when it is attempted to correct the minutes

* Congressional Globe, Vol. xxviii. Part 2, p. 789.

of a previous day's proceedings. At the Southern Baptist convention at Russellville, Ky., May 1866, one item of a previous day's minutes was excepted to. It was moved to amend, and to amend the amendment. On this, debate occurred of a delicate character, and rather protracted. To stop this debate, the previous question was moved. This the chair ruled out of order; and correctly. The principle is this: The minutes were charged with error; if so, it was necessary that they should be corrected. But the effect of the previous question would have been, in part, to suppress all propositions to correct. Therefore, that which, in its very nature, contained a declaration that that should not be done which *must* be done, is out of order, and inadmissible. Again, suppose that members, influenced merely by a desire to stop debate, should have sustained the call; but when the main question was put, (which, in this case, would have been that the item should stand in the very words of the clerk,) should have voted not to sustain the accuracy of the record — what then? They would have voted both that the record was erroneous and that they would not correct it. For the previous question suppresses not only debate but also all propositions to amend.

108. All incidental questions, after the previous question is moved, must be decided without debate.

2. *Indefinite Postponement.*

109. As has been said, this motion is designed to evade a direct vote on the merits of a question. It is of American origin, and performs in part the office of the English parliamentary previous question, in that it suppresses a principal motion — *i. e.*, removes it from before the house without taking a direct vote on it. It is of the same grade with the motions to commit and for the previous question, and cannot be moved while either is pending.

110. The motion for indefinite postponement lays

open the whole question for discussion, on the principle that whatever motion proposes to make a final disposition of a question brings up for discussion all its merits. Nor is even the previous question an exception to this. That, if sustained, does not make a final disposition of the pending proposition; for it compels a direct vote subsequently for or against the main question. To lie on the table, and to postpone to a time definite, are not debatable, because they only temporarily defer measures. Debate, therefore, may be withheld until they come again before the assembly in order.

111. The motion to indefinitely postpone cannot be amended. It has been held by some writers on parliamentary law that it can be amended by striking out the word "indefinitely" and inserting a definite day; but this is, by amendment, to transform one form of question into another, which is clearly inadmissible. "A motion to suppress" cannot be, by amendment, transformed into "a motion to defer."

112. When a motion to indefinitely postpone prevails, the proposition so postponed cannot be renewed during the session.

113. It is not in order to move to indefinitely postpone the motion for a subsidiary or incidental question; as, *e. g.*, a motion to amend, or a point of order raised; since the appendage cannot be separated from its principal. But subsidiary questions subordinate to this may be indefinitely postponed together with the principals to which they are attached.

SECT. III. — OF COMMITMENT.

114. As has been observed, if a proposition in the main meets the approbation of an assembly, but is in such a crude state as to make it inconvenient to amend it by a large body, it is customary to refer it to a committee, with or without instructions; or, if it has been already reported on, to recommit it in the same way.

115. When there are two motions, one to refer the

proposition or document to a standing committee and another to a select committee, the question is to be taken on the standing committee first. But a part of a document or proposition may be referred to one committee and another to another.

116. On the motion to commit, the merits of the proposition are not open for discussion; because such reference is not a final disposition of the question, and when reported back to the house it will still be open for discussion. The chair, therefore, should hold the debate strictly to the motion to commit. But if instructions be added to the motion to commit, the merits of the question are open for discussion.

117. Commitment is of the same grade as postponement and the previous question, and cannot supplant or be supplanted by them.

SECT. IV.—OF AMENDMENT.

118. There are three ways by which a proposition may be amended, viz., by inserting or adding words; by striking out; and by striking out and inserting.

119. When a proposition consists of several paragraphs, sections, or resolutions, the natural order is to commence at the beginning and proceed to amend it paragraph by paragraph in succession. When a latter part is amended, it is not in order to recur back and amend a former part. The proper course is for the presiding officer to read or cause to be read the proposition, pausing at the end of each paragraph, and inquiring if any amendment is proposed. Should none be offered, he will pass on to the next, and so on to the end. But there is an exception to this in the case of a preamble. As amendment of the resolutions may require a corresponding alteration in the preamble, this latter is not to be considered and amended until the resolutions have been perfected.

120. It would seem from the meaning of the word amendment, that none but the friends of a proposition

should propose any changes in it, and that the design of every motion to amend should be to perfect it; but this is not always in fact the case. The enemies of a proposition may so alter it by amendment as to entirely change its meaning and intent. This is sometimes done by those who are able to vote down the proposition, but who, for sufficient reason, desire to put it in such a shape as to make its supporters vote against it themselves. In one of the religious conventions, it was thought desirable to make a special effort to invigorate its State denominational paper, that was in a languishing condition. For this purpose, a resolution was introduced commending it to the people, and proposing besides to the convention definite and decisive action. It was moved to amend this by inserting after its name, in the clause recommending it, the name of a paper in another State. This motion was considered very *mal-a-propos*, and could easily have been voted down. But it was thought desirable to avoid the appearance of opposition to the paper of the other State; so it was proposed to amend the amendment by adding, "And all the papers in the United States, both secular and religious;" which was carried in the affirmative. The amendment thus amended was unanimously rejected.

121. The inconsistency or incompatibility of a proposed amendment with one already adopted, may be a sufficient ground for its rejection by the assembly, but does not justify the presiding officer in ruling it as out of order. Consistency or compatibility among propositions to amend does not come within the domains of order as controlled by the chair. Were he to claim and exercise such jurisdiction, he would embarrass and hinder rather than subserve the will of an assembly. This is not inconsistent with the principles laid down in paragraph 65. There the inconsistency relates to main motions which have been already adopted: here, to subsidiary motions designed to shape main propositions preparatory to final action; and it has been shown

above that, to secure the rejection of propositions, it is legitimate to so shape them as to make them absurd and ridiculous.

122. Every amendment, which may be proposed, is itself subject to amendment in all three of the ways in which it can be effected. (*See* 118.) But it is not in order to amend an amendment to an amendment. To avoid embarrassment, a limit must be fixed to these motions; and usage has fixed it after an amendment to an amendment. If the assembly should be dissatisfied with the pending amendment to the amendment, the remedy is to vote it down, and then entertain it again moved in such a shape as to meet its views.

123. When an amendment is pending, motions to amend must be limited exclusively to it; *i. e.*,—the only motions in order are to insert words into the amendment, or to add words to it; to strike words out of it; and to strike words out of it and insert others in their place. It will not be in order, therefore, when a motion to amend a paragraph is pending, to move as an amendment to the amendment to alter the words of another paragraph, or to strike out the whole paragraph proposed to be changed by the first motion. The reason for this is simple. While there may be many questions before an assembly at the same time, there is but one that can engage its attention at a time. All the others are temporarily supplanted and held in suspense by this. Now, in this case, the question in order before the house is the pending amendment. To this then all motions must be limited until it is disposed of.

In the U. S. House of Representatives, March 31st, 1854, "The question was then taken on MR. COBB'S amendment to the amendment; and it was rejected. The question recurred on MR. CLINGMAN'S amendment. MR. MATTESON. 'Is it in order now to offer an amendment to the first section of the bill?' The CHAIRMAN. 'It is in order.' MR. BOCOCK. 'There is an amendment already pending. The amendment of the gentleman from New York will not, therefore, be in order, except as an amendment to the amendment.' The CHAIRMAN. 'That is true. There is an amendment pending. Does

the gentleman from New York propose to offer an amendment to that amendment?' MR. MATTESON. 'No, sir; it is a substantive amendment, and I will reserve it until the pending question is disposed of.'" *

124. In the English Parliament, when it is proposed to strike out certain words, and it is moved to amend the amendment by striking out certain words in it, it is always put to the house whether the words proposed to be stricken out of the amendment shall stand in the original proposition; if it is carried in the affirmative, those words are retained and cannot afterwards be altered, if stricken out they cannot be again restored. But it is different in this country by American parliamentary law, and by the usage of all bodies. Here, the question is invariably put, "Shall the words be stricken out of the amendment?" and the modification is designed directly to affect only it. If the amendment to the amendment prevails, that does not necessarily decide that the words shall stand in the original proposition without a liability of alteration: if the amendment to the amendment be voted down, that does not mean that the words are stricken out of the original proposition. Whatever may be the result of the vote on the amendment to the amendment, the sole meaning of it is, according to the American code, that that is the form in which the amendment shall be proposed to the main proposition. Some writers on parliamentary science and some able presiding officers err in not recognizing this difference between the English and American code.

125. Whatever is agreed to by an assembly either adopting or rejecting a proposed amendment cannot be altered or amended; and whatever is disagreed to cannot be moved again. There is no contradiction here of the principle laid down in paragraph 121. All amendments that can be adopted or rejected must consist of *words* that can be inserted or added; or struck out; or struck out and inserted. Thus, if it be moved to in-

* Cong. Gl., Vol. xxviii. Part 2, p. 827.

sert into a proposition *certain words*, and the motion prevails, *those words* cannot afterwards be amended because they have been agreed to in that form; so, if it be moved to strike out certain words, and the amendment is rejected, *those words* cannot afterwards be amended, because a vote against striking them out is equivalent to a vote agreeing to them as they stand. In like manner, if it be moved to amend by inserting certain words, and the amendment is rejected, *those words* cannot be moved again; for they have been disagreed to by a vote; so also, if it is moved to amend by striking out certain words, and the amendment prevails, *those words* cannot be restored, because they have been disagreed to by a vote.

126. While it is true, as asserted above, that when it is moved to strike out certain words and the motion fails, these words or a part of them cannot be struck out afterwards, it is still true that it is in order to move to strike out all of those words with others, or a part of them with others, provided the connection is such as to make them distinct propositions from the former. In like manner, while it will not be in order to insert again the words or a part of them struck out by amendment, it will be admissible to move to insert again the same words with others, or a part of the same words with others, provided the coherence is such as to make them distinct propositions from the former.

127. On a motion to amend by striking out or inserting, the mode of proceeding is, first, to read the paragraph as it is; then, the words to be stricken out or inserted; and, finally, the whole passage as it would be if amended.

128. The third form of amending propositions — viz., by striking out and inserting — is a combination of the first two, and is governed by the same principles. If there is no special rule forbidding, it may be divided; and the question may be taken first on the motion to strike out, and, if that prevail, then on the motion to insert. If the motion to strike out fails, the accom-

panying motion to insert will, of course, fall to the ground. It is customary in this country to put the two questions as one; and Congress has a special rule to that effect.

129. If the motion to strike out and insert should fail, that will not prevent another motion to strike out and insert something else; since, undivided, these are two distinct motions. It may, indeed, be moved to "strike out the same words and, 1, insert nothing; 2, insert other words; 3, insert the same words with others: 4, insert a part of the same words with others; 5, strike out the same words with others, and insert the same; 6, strike out a part of the same words with others, and insert the same; 7, strike out other words and insert the same; and, 8, insert the same words, without striking out anything."

130. This is limited, though, to propositions to amend portions of the words of a paragraph; it is not applicable to the paragraph, section, or resolution, as a whole. A refusal to strike out all the words of a paragraph is equivalent to a vote to retain them all; and as there are no other words with which the whole or a part of the paragraph can be connected, so as by their coherence to form a different proposition, it is evident that the words of the paragraph are susceptible of no other amendment. It may be asked, in what respect does this case differ from that in which the principle is laid down that, after the motion to strike out and insert words is lost, it may still be moved to strike out and insert other words? The answer is, that the motion to strike out a paragraph is not pertinent until all desired amendments have been made to it; or until the proper amendment is offered which is deemed a suitable substitute for it. The principle is contained in the following quotation from Jefferson's Manual:* "If it is proposed to amend by striking out a paragraph, the friends of the paragraph are first to

* Section XXXV.

make it as perfect as they can by amendments, before the question is put for striking it out. If, on the question, it be retained, it cannot be amended afterwards; because a vote against striking out is equivalent to a vote agreeing to it in that form." But, after the motion to strike out a paragraph and substitute another in its place is lost, it is still in order to move to strike it out, on the principle of striking out the same after it has been amended; or, on the principle of rejecting, on the final vote, a resolution that the assembly has already by vote refused to accept a substitute for.

131. On this principle, then, suppose a substitute is offered for a bill or a resolution. As a substitute is but a motion to strike out all after the enacting clause or the word *Resolved*, and insert that offered as a substitute, it is simply an amendment. As such, it is the subject before the assembly; and all amendments must be applied to it until it is perfected. Now, suppose when the substitute is put to the vote, it is rejected —what then? The answer is, the original bill or resolution is not susceptible of amendment; and must be adopted or rejected as it is. In the case supposed, those who are in favor of the main features of the bill or resolution, but except to some important particulars in it, which they would like to amend, are driven to the necessity of voting against a measure important in the main, or else of accepting and being responsible for provisions that they deem inexpedient, and, on principle, are opposed to. Is there no remedy for this embarrassment?

132. The remedy is found in the principle above laid down by Jefferson: "The friends of a paragraph [bill or resolution] are first to make it as perfect as they can by amendments before the question is put for striking it out." For this purpose, they must raise the point of order; for the chair has no right to assume that the principal proposition is not in a shape to suit members; and, least of all, has he a right to attempt to checkmate members, who may be employing parlia-

mentary tactics. When the point is raised, the chair will sustain it; and the method of proceeding then will be to go on with amending the substitute until it is perfected, and then lay it on the table. The principal proposition will then be taken up for amendment; and, finally, the question will be put on the adoption of the perfected substitute in lieu of the perfected principal proposition. If the vote be in the negative, the principal proposition—while it is susceptible of no further amendment, if a bill or resolution—may still be rejected; and, if a paragraph or section, may still be stricken out.

133. The usual mode of proceeding on a motion to strike out and insert, is to read the proposition as it now stands; then, the part proposed to be stricken out; after this, that which is proposed to be inserted; and, finally, the whole passage as it would read if thus amended.

134. If errors are detected in the minutes of a previous day's proceedings, they may be corrected by motions to amend in any or all the ways indicated in this section. But members are limited to motions to *correct.* They may not propose amendments that do not correspond to the facts of the case. The question is not, what ought the assembly to have done, but what it did in fact do. In moving to amend the journal, therefore, members are to act as much in the character of witnesses as of legislators.

Division of a Question.

135. When a proposition contains two or more parts, each of which can stand by itself, if any of the parts are objectionable, they may be removed by motions to amend by striking out. A more convenient way though is by a division of the question, and a consideration of each part as a distinct proposition.

136. Unless the assembly has a special rule to that effect, the division is not ordered upon the demand of

one member; but it must be effected by vote of the house on motion in the usual way. When a member moves for a division, his motion must state into how many and, definitely, what parts he would have it divided into. For a proposition, in order to be divisible, must possess parts so distinct that if one or more should be taken away the remainder can stand by themselves, and be consistent and entire. A qualifying paragraph, an exception or a proviso, if taken from that to which it belongs, would not contain a distinct or entire proposition.

United States House of Representatives, April 19, 1852. "Mr. Orr having moved to recommit the report of the Committee on Printing, with instructions, etc., Mr. Stuart demanded a division of the question, so that a separate vote might be had first on the recommitment and second on the instructions. The Speaker decided that the motion to recommit with instructions was indivisible, on the ground that it did not contain propositions so distinct that one failing the other could stand; if the house should refuse to recommit, there would be nothing left with which to connect the instructions. From this decision of the chair Mr. Stuart appealed; when, on motion of Mr. Orr, it was ordered that the appeal be laid on the table. So the decision of the chair was sustained.

"Mr. Alexander H. Stephens then called for a division of the question, so that separate votes might be had on the two brancnes of the instructions, etc. etc. The Speaker decided that the question was indivisible for the same reason that he had just decided the proposition of Mr. Stuart to be out of order; if, as the house had just sustained him in deciding, the question of recommitment with instructions cannot be divided, the instructions themselves cannot be divided, as a division will separate the commitment from a *part* of the instructions, which can no more stand alone than the *entire* instructions. From this decision of the chair Mr. Stephens appealed; when, on motion of Mr. Cabell, it was ordered that the appeal be laid on the table. So the decision of the chair was sustained."

The same session, Feb. 11th, "Mr. Stratton, by unanimous consent, presented joint resolutions of the legislature of New Jersey, in favor of the compromise measures. The same having been read, Mr. Stratton moved that they be laid on the table and printed. A division of the question having been called for, the question was first put on the motion to lay on the table, and it was decided in the affirmative. The question then recurring on the motion to print, Mr. Giddings rose for the purpose of debating the same; when Mr. Orr made the point of order, that, inasmuch as the subject which it was proposed to print had been laid on the table, it was not now competent for the house to entertain the motion to print. The Speaker overruled the point of order. From this decision of the chair Mr.

Orr appealed; when, on motion of Mr. Hall, it was ordered that the said appeal be laid on the table. So the decision of the chair was sustained."

The Speaker might have avoided the evident incongruity by ruling, as he ought to have done, that the question was indivisible.*

137. A proposition thus divided becomes a series of propositions to be considered and acted on one after another.

138. As the opposite of the above, when the matter of two propositions had better be consolidated into one, the mode of proceeding is to reject one and then incorporate the substance of it into the other, by way of amendment.

139. In like manner, if a paragraph or section is to be transposed, the usage is by one motion to strike it out where it is, and by another to insert it in the place desired. But in this case and in that of the paragraph above, it would be better to refer the subject to a committee.

Filling Blanks.

140. When propositions are introduced containing blanks to be filled either with times or numbers, these must be filled before any motion is made to amend. To do this, the chair will entertain any number of propositions of time or number, not requiring any of them to be seconded; and put the propositions to the house, beginning with the longest time or largest number, and continue to submit them to vote in succession until a majority is obtained.

141. This principle, however, is applicable only to blanks. If a proposition contain a provision for time or number, it is liable to the common rule for amendment, viz., that any words may be struck out and any other words inserted in their place. It is in order, therefore, to strike out a shorter time or smaller num-

* For a contrary decision in Congress, see p. 38.

ber and insert a longer time and larger number, and *vice versa*.

SECT. V.—OF RECONSIDERATION.

142. The English Parliament rigidly maintains the principle that when a subject has been once decided either in the affirmative or negative, it is to remain permanently as the judgment of the house. To remedy the inconveniences that sometimes occur, it resorts to various expedients; as, by passing an explanatory act, or an act to rectify mistakes in an act, &c. In this country, in such cases, resort is had to a motion to reconsider.

143. No one is at liberty to move a reconsideration unless he voted with the majority. Were it in the power of one in the minority, the time of the assembly may be wasted by motions to reconsider questions even though they may have been decided by overwhelming majorities. By majority here is meant the prevailing party. Consequently, in the case of a tie vote, none but those voting in the negative can make the motion. (*See* 33.)

144. It is customary in some assemblies for a rule to be adopted prescribing the time in which the motion can be made, and the number that must be present when it is made; but, in those cases where there is no rule on the subject, the motion can be made precisely as any other motion, and it is subject to no other rules. In the absence of rule, then, it is not necessary that the same number must be present when the motion is made as there were when the vote was passed which is proposed to be reconsidered; and it would be in order at any time during the session, provided the paper has not passed out of the possession of the assembly.

145. A motion to reconsider brings up for discussion the whole merits of the subject proposed to be reconsidered. The reason is, that the motion to reconsider is a new one, "distinct both from a motion to rescind

the former vote, and from the subject of it." Should the motion prevail, the merits of the question are again brought up for discussion. Consequently, every proposition that has been reconsidered—if debatable at all—is liable to a full discussion three times: when it is first proposed; when the motion is made to reconsider; and when that motion has prevailed.

146. A proposition reconsidered is again before the assembly in the form it was in immediately before it was voted on; and it is again subject to all those changes to which it was liable anterior to that vote.

147. It cannot be moved to reconsider a second time a proposition already reconsidered. But if after such reconsideration it has been so amended as to become in effect a new question, it may be reconsidered again. A motion to reconsider, if rejected, cannot be renewed.

148. It cannot be moved to reconsider a motion to lay on the table, or to adjourn. The reason is, that these motions can be renewed after the proper intervals.

In U. S. House of Rep., Feb. 4th, 1853, "The motion to reconsider the vote by which the house refused to lay upon the table the bill of the Senate, &c., &c.

"Mr. Dean made the point of order, that it was not in order to move to reconsider a vote by which the house had refused to lay a measure upon the table; the motion to lay upon the table, like that to adjourn, being one that can be made at any time, without that necessity for a reconsideration which exists in other cases.

"The Speaker stated that, while he was willing to admit that the weight of argument might be on the side of the gentleman from New York, (Mr. Dean,) the precedents were the other way, and he was not disposed to change the practice. He, therefore, overruled the point of order.

"From this decision of the chair Mr. George W. Jones appealed. when Mr. David L. Seymour moved that the appeal be laid on the table. And the question being put on the latter motion, it was decided in the affirmative. So the decision of the chair was sustained."

The admissions of the chair were right, and his ruling was wrong. It will be noticed, too, how common, in the proceedings of Congress, is the illegitimate use of the motion to lie on the table, as applied to appeals from the decisions of the Speaker. Nothing can

be legitimately laid on the table excepting that which can, on motion, be taken up again.

149. The motion to reconsider is applicable to all votes, whether affirmative or negative, on all the other subsidiary questions—viz.: on motions to postpone, to commit, to amend, and for the previous question. But when the order for the previous question is in process of execution,—*e. g.*, when the main question is being taken,—it is too late to move a reconsideration.

150. It has already been referred to (*par.* 88) that usage in Congress allows a member to move a reconsideration, and then move immediately that his own motion lie on the table. This is abusive, and should always be ruled as out of order.

CHAPTER VII.

INCIDENTAL QUESTIONS.

151. As has been said, during proceedings on principal or on subsidiary motions, questions may arise incidental to those pending, which must be decided before them. The incidental questions are: *first*, questions of order; *second*, reading of papers; *third*, withdrawal of a motion; and, *fourth*, suspension of a rule.

SECT. I.—QUESTIONS OF ORDER.

152. It is the duty of the presiding officer at all times to preserve order, and to enforce rigidly the rules; and any member has the right to insist upon such enforcement. But sometimes there is a difference of opinion as to the interpretation of the rule, or as to its application to the pending case. In that event, the point of order is to be raised.

153. The manner of raising a point of order is as

follows: A member rises, whether another has the floor or not, and, addressing himself to the chair, says: "Mr President, I rise to a point of order." The presiding officer will respond: "State it, if you please." If any one has the floor, he will take his seat for the time. When the point is made, it will be decided by the chair; and, if no objection be raised, it will stand as the sense of the body. If any one is dissatisfied with the ruling of the chair,—either the one raising the point, or any other member,—he will say: "I beg leave to appeal from the decision of the chair." The presiding officer will then state the point of order raised, and his decision on it, and then put the question: "Shall the decision of the chair stand as the sense of the assembly?" The decision of the assembly, either sustaining or overruling the chair, will be final in the premises. When the point of order has been decided, proceedings are resumed again, commencing at the point at which they were interrupted, and governed by the principles of the decision. If one had been temporarily deprived of the floor, he will resume it again, provided the decision had not been to the effect that he was not entitled to it.

154. Questions of order may be of two kinds: *first*, those that relate to general principles; and, *second*, those that have a personal bearing. As an example of the first may be given the question raised whether, on the motion to indefinitely postpone, it will be in order to discuss the merits of the main proposition; as an example of the second, the case when one raises the point as to whether the remarks of a member are not irrelevant and violative of order. In the first case, debate on the point of order is admissible; in the second, it is out of order. It is worthy of special note that all questions of order of a personal character, whether on an appeal from the decision of the chair or not, are to be decided without debate.

155. On an appeal from his decisions, the presiding officer can participate in the debate without vacating

the chair. It is out of order for any one to speak on the decision of a point of order unless an appeal has been taken from such decision. But the presiding officer may accompany his ruling, if so disposed, with a concise statement of his reasons.

156. A point of order takes precedence of all the subsidiary questions excepting the motion to lay on the table; and of the other incidental questions. But it is subordinate to all the privileged questions, viz.: to adjourn; questions of privilege; and orders of the day, — unless it grows itself out of those privileged questions.

157. It is the duty of the presiding officer to answer questions on points of order, when those points rise naturally in the progress of business; and he may give information, when asked, as to what motions would be necessary to enable members to accomplish legitimate objects they have in view. But he may not answer questions dictated by curiosity or captiousness. He is not to consume the time of the assembly by transforming himself from a presiding officer into a lecturer on parliamentary science.

SECT. II. — READING PAPERS.

158. When papers are laid before the house or referred to a committee, it is the privilege of each member to have them read at least once before being compelled to vote upon them; and this is so evident that, when in good faith he requests the reading, it is usual for the chair to direct the paper to be read, without putting a question, if no objection be made. But if objected to, a question must be put.

U. S. H. R., Aug. 28th, 1852. "Pending the question on disagreeing to the amendments of the Senate to the bill of the House No. 196, and asking a conference with the Senate thereon, upon which the main question had been ordered to be put, Mr. Cabell called for the reading of the said Senate amendments. Mr. Clingman moved that the rules be suspended so as to enable him to move that the reading of said amendments be dispensed with. Mr. Ewing made the point of order that the said motion was not in order, on the ground

that each member had a right to have every proposition read upon which he was called to vote, and that it was not in the power of the house to deprive him of that right. The Speaker decided that the said motion was in order. He admitted that a member had the right to have a proposition read before he could be called to vote upon it. This right, however, was derived from the rules; and, by a suspension of those rules, he was clearly of the opinion that he might be deprived of it. The propriety of suspending the rules for that purpose was a matter to be judged of by members in giving their votes. From this decision of the chair Mr. Ewing appealed; when, on motion of Mr. Chastain, it was *Ordered*, That the appeal be laid on the table."

159. But no member has a right to have a book or paper read whenever he pleases; nor even to read them himself from his seat. Indeed, to such an extent is this principle carried, that a member has strictly not the right to read his own written speech. All this is designed to prevent the waste of time. To accomplish his object, if objection be made, a member must move, and the question must be put on his motion, that the paper be read.

160. A motion for reading papers is not debatable.

SECT. III. — WITHDRAWAL OF A MOTION.

161. As has been already said, any member who has made a proposition can withdraw it at any time anterior to a vote upon it. If, after this, he desires to withdraw it, he must first obtain leave to do so by vote of the assembly. (*See par.* 67.) A motion to grant leave to withdraw a proposition is not debatable.

SECT. IV. — SUSPENSION OF A RULE.

162. Whenever a proposed action is hindered by a rule previously adopted, it is customary, in this country, to remove the embarrassment by a motion to suspend the rule. Such a motion interrupts for the time being the original proposition, and must be decided first.

163. It is customary for a rule to be adopted prescribing what number, exceeding a majority, shall be required to suspend a rule. In some cases, a vote of

two-thirds, in others, of three-fourths, is required. Where no rule exists on the subject, it would seem that the rule can be suspended only by unanimous consent. A motion to suspend the rules is not debatable.

CHAPTER VIII

PRIVILEGED QUESTIONS.

164. There are certain questions which, on account of the necessity of the proceedings to which they lead, are entitled to take precedence of all other questions. These are called privileged questions. They are: *first*, motions to adjourn; *second*, motions relating to the rights and privileges of the assembly, and of its individual members; and, *third*, motions for the orders of the day.

SECT. I. — ADJOURNMENT.

165. The motion to adjourn takes precedence of all other questions. But for this purpose, it must be a motion simply to adjourn. If it be made in any other form, as, for instance, to a particular day, or for a particular time, it loses its character as a privileged question, and cannot suspend the pending proposition. This motion can be made at any time, provided the mover can legitimately obtain the floor. If carried in the affirmative, the pending proposition is suspended and interrupted; if decided in the negative, the proposition before the assembly is proceeded with as if no interruption had occurred.

166. The motion to adjourn, if decided in the negative, cannot be renewed immediately. But if progress has been made in the business before the assembly — *i. e.*, if a vote has been taken or a speech made on it, it may be renewed.

167. A motion simply to adjourn is in no instance debatable; but if, in order, it is moved to adjourn to a particular day, or for a particular time, the proposition will admit of debate. In this form, it cannot be moved when anything else is pending; for, in this form, it is itself a principal proposition, and not a privileged question.

168. When the motion in its simple form prevails, it adjourns the assembly to the next sitting day, or time in course. An adjournment *sine die*, or *without day*, is tantamount to a resolution of the assembly that it will never, by its own appointment, meet again. In all permanently established constituent bodies, the members hold office until their successors are appointed; and, after adjournment *sine die*, competent authority may, if emergency arises, in the interval between their adjournment and the assembling of their successors, appoint an extraordinary time for their meeting, and summon their members to an attendance on it. But without such outside call by authorized parties, a vote to adjourn *sine die* is equivalent to a virtual dissolution of the assembly.

SECT. II. — MOTIONS RELATING TO THE RIGHTS AND PRIVILEGES OF THE ASSEMBLY, AND OF ITS INDIVIDUAL MEMBERS.

169. The occasion for a motion pertaining to privilege arises when the proceedings of the assembly are interrupted by disorderly conduct either on the part of strangers, or of its own members; when the freedom of debate and proceedings is attempted to be overawed by mobs; when the rights or privileges of members are infringed, — as, when they are attacked with force or violence either in the house, or on their way thither, and when they are obstructed in their entrance into the assembly; when a member is attacked in a petition lying on the table, — in short, anything which interferes with the rights and privileges of an assembly or of its

individual members furnishes the occasion for a motion pertaining to privilege.

170. As the occasions which give rise to this motion may be of a most pressing character, it is evident that this question must be of high grade. It, in fact, supersedes all motions excepting that to adjourn. Indeed, it can even compel one occupying the floor to suspend his remarks, and to give way as though he had been taken down by a point of order.

SECT. III. — ORDERS OF THE DAY.

171. Questions of this kind are those to which an assembly gives precedence by a vote previously passed. For instance, it is ordered that such a proposition or subject be made the order of the day on some designated future day. The effect of such an order is to make that question a privileged one for that day. If, in the course of business, several subjects are assigned to a particular day, they are called orders of the day.

172. If, therefore, on the designated day, any proposition is moved, excepting a question of privilege, or some other privileged question, entitled to precedence, the motion for the orders of the day will supersede that motion.

173. In order though for it to have precedence, it must be for the orders in general, and not for a particular one. If carried in the affirmative, the chair must take up the questions in the order in which they stand.

174. On the arrival of the time set apart for a particular order, the chair should call the attention of the assembly to the fact. For this purpose, he may even interrupt one in his speech. After announcing the arrival of the hour, he will pause to see whether a motion will be made to take up the order of the day, or to postpone it. If either no motion be made, or one to proceed to the order of the day be negatived, the business interrupted will be resumed at the point at which it was

interrupted, and the member, if any one had been speaking, will proceed with his speech. A motion for the orders of the day must be decided without debate.

175. If the special order is postponed because the assembly is unwilling to interrupt the business before it at that time,—should the business be disposed of before the expiration of the time set apart,—the order of the day may still be taken up and proceeded with. If business has been suspended by it, that business may be resumed again as soon as the order or orders to which it gave way shall have been disposed of. An order, by any means postponed, may be assigned to another day.

176. A motion to adjourn, and a question of privilege, take precedence of a motion for the orders of the day; but it supersedes all the subsidiary and incidental questions, excepting such incidental questions, if any, as may grow out of it. And all such incidental questions, like the motion itself, are to be settled without debate.

CHAPTER IX.

RIGHTS AND DUTIES OF MEMBERS.

177. It is the right of each member to introduce and advocate any proposition in order. This is based upon the entire equality among members.

178. It is the duty of members to grant to all their associates their rights; to treat them with courtesy and respect; and to refrain from all things which will interrupt and annoy them while they remain in order.

179. They should maintain the deportment of gentlemen, and do nothing to disturb the order and decorum of the assembly, not only while a debate is in progress, but also when no one occupies the floor. They should refrain from entering into the house with their hats on;

from moving from place to place, and gathering into knots, or standing at their seats or in the aisles; from engaging in conversation; from passing between the chair and the member occupying the floor; from going to the table, writing there, or meddling with the books or papers on it. In short, they should refrain from anything tending to confusion or to disrespectful or disorderly interruption.

180. Any member has the right to insist that order should be preserved, or that the rules should be enforced. For this end, he has the right to raise the point of order before the chair, interrupting, if necessary, the member alleged to be out of order. But in these interruptions his tone and manner should be marked with the highest courtesy towards the one interrupted and complained of. The one complaining of disorder is himself disorderly if his manner naturally tends to irritation.

181. When a member persists in a course pronounced disorderly by the presiding officer, it is customary for that officer to complain to the assembly by "naming" the offender. That is, he declares to the assembly that such a one, mentioning the individual by name, is guilty of disorderly conduct. This is equivalent to the arraignment of the individual. He is then to be heard in defence or extenuation of his conduct and to withdraw. After he retires, the presiding officer states the offence committed, and the assembly proceeds to inflict a punishment adequate to the offence.

CHAPTER X.

ON DEBATE.

182. In order to engage in debate, one must first obtain the floor in the manner already explained in paragraph 56. When he has once obtained it, he cannot be deprived of it so long as he does not violate order: provided the topic he is discussing does not cease to be in order by the lapse of time, and provided no sudden and pressing emergency occurs which demands immediately the consideration of a question of privilege. (*Par.* 169.)

183. In debate, the member must confine himself strictly to the subject before the assembly; otherwise he is liable to be interrupted by the presiding officer or by another member rising to a point of order. The course of a member in debate, though, should be construed in the most liberal manner. He may for the time seem to be wandering from the point before the house; but his course may be consistent with a legitimate plan of discussion marked out for himself; and he may return from the apparent digression with accumulated force. What may appear a digression to some minds and irrelevant, may to others seem consistent; and, if uninterrupted, they may make it appear to all ultimately that it was legitimate and illustrative. Nor should one be interrupted because to others he may seem to be violating judgment and good taste. Taste and judgment are not to be dragged into the domains of order. The presiding officer and the assembly should bear patiently with one occupying the floor, and refrain from interrupting him until his irrelevancy is made glaringly apparent. Better bear patiently a slight wandering from the subject than

that the freedom of debate should be abridged, or minds be prevented from exhibiting themselves, in order, in their characteristic ways.

184. Personalities in debate are always out of order. It may, however, sometimes be allowed to answer the man as well as the argument; and a member may be severe, provided he be parliamentary too. But severity may never be indulged by the application of epithets, or by the imputation of unworthy motives. It is always more dignified, however, to waive the right to use severity, and to confine remarks exclusively to the merits of the question.

185. It is out of order for any one to reflect upon any previous action of the assembly, unless he designs to close by moving to reconsider, repeal, or rescind it. But, while a proposition is still under consideration, to reflect on it is not to reflect on the assembly.

186. The one occupying the floor should address himself not to the assembly but to the presiding officer. He should refer to no one by name; but designate him by one of some such phrases as these: the gentleman (or brother) who last spoke; or the last but one; or the gentleman to my right, or to my left; or the mover of the proposition; or the gentleman from ——, etc. This is necessary in order that all occasion for irritation may be avoided.

187. It is a rule in Congress that no one shall speak more than once to the same question. In all assemblies where no rule exists on the subject, members may speak twice. This refers, though, only to principal and subsidiary motions that are debatable. On questions of order open to discussion, it is admissible to speak but once. But a member having already spoken twice may speak again to explain, provided he confines himself exclusively to the explanation. But he must not interrupt one occupying the floor, to explain. When an amendment has been proposed, one who has already spoken to the main proposition may occupy the floor again on the same terms on which he spoke on the original proposition.

188. An assembly should respectfully listen to one who, in good faith, addresses them in his own way. But no one has a right to fatigue them with a long and dry and tedious harangue. He should recognize with great respect the signs of fatigue and impatience exhibited by the members; for he may assume that their instinctive politeness would not be intermitted unless some excuse is found in his own course. In this case, he had better waive his right than to unavailingly address his remarks to unwilling ears.

189. When a member appears to speak irrelevantly or otherwise out of order, it is the duty of the presiding officer to interrupt him, and any other member may do the same. In the latter event, the member will rise, and, addressing himself to the presiding officer, will say, "I rise to a point of order." When requested by the chair to state it, he will specify the thing he objects to. If the chair rules that the member is out of order in his remarks, and no appeal is taken from the decision, he will abandon the line of remark condemned, and, if permitted, proceed in order. Should an appeal be taken, it will be decided without debate. The reason is that the question of order is personal, and remarks are liable to produce irritation. When the irrelevant speaking is personally offensive, and thus tends to irritation and disorder, it is the duty of the presiding officer to interrupt immediately; but when it is mere irrelevancy, without personality or offensiveness, it is right for him to be passive until exception be taken first by some one on the floor. It is better for him, in this connection, to be too lenient than to appear to embarrass the freedom of debate. Members sometimes interrupt, not to take exception in the matter of order, but to interrogate the one speaking. This has grown into quite a usage in Congress; and the presiding officer is passive while the one interrupting tries to confuse the one speaking, or to draw him off from the topic he is discussing. True, the one occupying the floor can refuse to be interrupted, and the chair always sustains

him in such refusal; but the public opinion of the house requires that he should not thus apparently show a lack of courage. In this way members may be intimidated and virtually deprived of their privilege to debate; and the practice sometimes furnishes occasion for painful and disreputable scenes. It would be better for the chair to permit only such questions to be put as are clearly designed to elicit information, and to rule as out of order those that are argumentative, and such as are intended to embarrass and confuse. Timid and sensitive members are entitled to the protection of the chair while they attempt to exercise their right to debate. Besides, the dignity and order of the house are imperiled by interruptions of the kind. When, in this connection, disorders occur, especially in such bodies as are formed of opposing political parties,—as *e. g.* Congress and Legislatures,—the presiding officer is well nigh powerless to rescue the house from confusion; for, being the representative of one of the parties, he is always liable to be suspected of throwing his official influence in favor of his party friend.

190. A proposition that can be discussed is open to debate up to the time when the negative is put to the vote. Consequently, after the vote has been taken in the affirmative, and after the vote has been announced conditionally by the chair, if a division be called for, members may obtain the floor, and debate may be resumed again, as though no vote had been taken.

In this case, not only may debate be resumed, but all subsidiary and incidental motions are in order that were pertinent up to the taking of the vote.

191. It has been said that the presiding officer had better refrain from participating in debate. But should he rise to do so, he should have precedence. The member rising to the floor should give way when the presiding officer indicates a desire to address the assembly. This does not mean, though, that he has the right to displace one already engaged in addressing the house.

192. The previous question is designed chiefly to

suppress propositions;—in England, principal propositions; in this country, subsidiary. It also stops debate incidentally. Another way of putting a termination to discussion is for the assembly to have come to a decision in advance that, at such a time, the vote shall be taken on the pending measure. Should such a motion be made as incidental, while the subject is under consideration, it must be voted upon without discussion.

193. Another way of shortening the time of the discussion is to adopt a rule that no speech shall be made longer than a specified number of minutes. This may be made in advance as a principal motion, or it may be made an incidental question. In each case, it is to be taken without debate; on the general principle that any proposition designed to prevent the consumption of time, does not itself admit of the consumption of time.

194. It is customary in legislative bodies to hold members accountable for the use of disorderly words, personally offensive to a member or reflecting on the assembly, in the following manner: The member offended, or any one else, rises promptly and interrupts the member speaking. He is then called upon by the presiding officer to repeat the words of which he complains, that they may be reduced to writing by the clerk; or the member complaining may proceed to state the words, either verbally or in writing, without waiting for an invitation from the chair, and request the clerk to take them down. The presiding officer, unless he considers the objection a trivial one, may instruct the clerk to reduce them to writing; and may do so anyhow, if the members in general seem to sympathize with the complainant.

195. The words thus written down become a part of the clerk's minutes. They are to be read to the member who was speaking. If he denies having used them, the assembly must decide whether they were his words or not. If he admits that they were his words, or if

they have been so declared by the assembly, he is then to justify them or explain them so as to remove their disorderly appearance, or he may apologize for them.

196. If the justification, explanation, or apology, is not deemed satisfactory, and any two members desire to take the sense of the assembly on the words, and on the member's response to the complaint against them, the member must withdraw before the question is stated; and the sense of the assembly must be taken, and such further proceedings had in relation to the punishment of the member as may seem necessary and proper.

197. The offensive words must be taken down immediately after they are uttered. If the member be permitted to finish his speech, or any other matter intervenes, it will be too late to hold him responsible and to proceed against him in the manner designated above.

CHAPTER XI.

ON COMMITTEES.

198. Committees are small bodies of members appointed by the assembly to obtain information, to digest and put resolutions or bills in a form suitable to come before the house, and, in short, to do for the assembly that which, because of its formalities and its size, it could not conveniently do for itself. There is however a kind of committee called, "of the whole," composed not of a few persons appointed, but of all the members of the assembly.

199. Committees are of two kinds—standing, and special or select. A standing committee is one provided for by a special rule; and, in permanently established bodies, is appointed, as a matter of course, every session. A select committee is one raised by spe-

cial vote to consider and report upon some specific thing that rises as business progresses.

SECT. I.—MANNER OF APPOINTMENT.

200. Committees are appointed sometimes by ballot, as in the senate of the U. S.; sometimes by vote, on a question, where each name is voted on separately; and sometimes by designation of the chair. Where there is no rule or usage on the subject, the presiding officer designates the members of committees. It is in order though, and not uncommon, for the member who proposes the appointment of a committee to present a list of names, and move that they be a committee to consider and report upon the matter referred to them.

201. All the members of an assembly are eligible to appointment on committees. But it is not proper, in the case where a bill or other paper is to be referred, that those should be appointed who have expressed themselves as opposed to the body of the proposition; because he would not amend who would totally destroy. And if any one thus opposed hears himself named as on the committee, he should frankly state this objection to his eligibility. Those however who take exception to some of the details of the measure are suitable for membership in the committee. This rule relates exclusively to the case in which the committee are not to consider the general merits of a proposition, but only the amendment of it in its particulars so as to make it acceptable to the assembly.

202. When a committee has been ordered, the first thing to be decided is the number of which it shall be composed—provided there is no rule or usage fixing the number for all committees. This is effected in the manner employed in filling blanks. The chair will enquire, "Of what number shall the committee consist?" Members will propose numbers without the formality of motions. These will then be put to the question, beginning with the largest number proposed,

and proceeding down towards the smallest, until one of the proposed numbers obtains a majority. The member who moves the appointment of a committee is always appointed on it, on the principle that he is acquainted with the matter, and interested in it. He is named first on the committee; and is by courtesy its chairman. But it is competent for the committee, if they are so disposed, to elect their own chairman.

203. In theory, the majority of the committee should be of the friends of the measure referred. In legislative bodies in this country, this principle is applied in making the majority to consist of the friends of the political party in the ascendant. This is frequently perverted, and carried to reprehensible extremes, when the minority is made very small, or composed of members so intellectually inferior as to exercise little or no influence on the proceedings of the committee.

204. The secretary should make out a list of the committee and place it in the hands of the first named on the list, together with the paper, if any, referred to them.

SECT. II. — MANNER OF PROCEEDING.

205. Nothing can be considered as the action of a committee excepting what has been agreed to by its members actually assembled. The members cannot act by separate consultation and consent. A majority of a committee constitutes a quorum for business.

206. Unless the assembly appoint a time and place for the committee to meet, it may control these questions for itself. The first on the list, acting as chairman, will call the members together at a time and place designated by himself; and then, by question and vote, they can adjourn and meet as do other deliberative bodies. But as the members of the committee are also members of the body, they cannot hold their meetings at the times of its sessions, excepting after special leave first obtained.

207. As a committee is a miniature assembly, the

course of proceeding is in the main similar to that in the assembly itself. The paper before it, is first read by the chairman as a whole; then it is to be read again paragraph by paragraph—the chairman pausing at the end of each to see if any amendments may be proposed. In the assembly, it is not allowable to revert to a paragraph after a subsequent one has been read or amended; but in so small a body as a committee, such strictness seems not to be necessary.

208. If the paper before a committee be one that originated with itself, it may be proceeded with in the manner pointed out in the last paragraph. Questions are to be put on the amendments proposed to each paragraph, but not on agreeing to the several paragraphs. When the whole is gone through with, a question is to be taken on agreeing to the whole paper amended or unamended. But if the paper is one which has been referred to it, amendments may be proposed and votes taken on them; but no vote is to be taken on agreeing to the paper as a whole; because the assembly has already passed upon it in some degree, and accepted it as the basis of its action. If, therefore, the committee are opposed to the whole paper, whatever shape it may be made to assume, they cannot reject it. The most that they can do is to report it back to the assembly without amendment, and there make their opposition to it.

209. In the case of resolutions on distinct subjects originating with themselves, a question is put on each separately, amended or unamended; and no final question on the whole. But if they relate to the same subject, a question is put also on the whole.

210. When a committee has completed its labors, a member moves that the committee rise, and that the chairman report results to the assembly.

SECT. III.—THEIR REPORT.

211. When a suitable time arrives, the chairman obtains the floor, and says, "Mr. President, The committee to whom was referred" (such a subject or paper) "are prepared to report." Or in the pause of business, or in accordance with the order of business, the presiding officer will say, "Is the committee on," &c., or, "to whom was referred," &c., "prepared to report?" The chairman will reply, "Prepared," or "Ready." The presiding officer will respond, "Let the report be received." If no objection be made to its reception, the chairman will proceed to read the report, and, having done so, will hand it up to the clerk's table.

212. A motion for the reception of a report is unnecessary, unless objection be made to its consideration at that time. If objection be raised, a motion must be made and a question put on its reception. Sometimes, when the chairman announces that the committee is prepared to present the report whenever the assembly may be ready to receive it, that readiness may be shown, without a formal motion, by the members crying out, "Now! now!" &c.; or, better still, the chair may assume, from his knowledge of the case, that the assembly is ready for its reception, and may officially announce, "Let the report be received." If, however, he may have misjudged the wishes of the house, and any one dissents, he must retrace his steps, and demand that a motion be made on the question of its reception. Of course, after the report has been read, it would be out of order and superfluous to move to receive it; as it could not have been read until it had been in the possession of the house. And how could the assembly with propriety vote to receive that which it has already in fact received, and partially acted on? After the reading of the report, the only pertinent motion is one to adopt it, or otherwise properly dispose of it.

213. Should a motion be made to adopt, as has been already observed, the presiding officer should read the

report, or cause it to be read, paragraph by paragraph, pausing at the close of each to afford members an opportunity to propose amendments; and after all the paragraphs have been read, he should put the question on the adoption of the whole, amended or unamended. Should the report consist of a series of resolutions on distinct subjects, he may put the question on each and not on all; because that would be in effect taking the vote on the same subject twice. Should the resolutions be on the same subject, the question is to be put on the whole also. Should there be a preamble to the resolutions, it is not to be considered and amended until after the final vote on the resolutions; for the reason that amendment may so change them as to require a corresponding change in the preamble.

214. The report, in its arguments and its phraseology, is as liable to amendment by the assembly as are its resolutions. When adopted by the house, it becomes the action of the house; and should in all its parts represent the sentiments and the taste of the house. If it may alter the resolution offered by a member to make it suit itself, why may it not do the same to the report of its committee? This is not the universal usage in deliberative bodies; but it ought to be.

215. In the case of a paper referred,—not that its general merits may be considered by the committee, but only that amendments may be made to its particulars,—the paper is not to be erased or interlined, but amendments proposed by the committee are to be written on another sheet. When the report is presented, the chairman reads the proposed amendments, "with the coherents in the paper," giving at the same time the reasons of the committee. When a motion is made to agree to the report of the committee, the presiding officer puts questions on motions to amend the committee's amendments, if any are proposed, and, finally, on the adoption of the paper, amended or unamended.

216. When the report is received, the committee is

thereby discharged. But it may be revived again, and the same matter recommitted to it. Should the report of a committee not be received, it does not become for that reason discharged; but it may be ordered to sit again, and consider the same matter. When a subject is referred to a committee, with instructions, those instructions must be carried literally into effect. But a committee may be discharged, and the subject recommitted to another committee. In this case, what has been passed is of no force, and the subject may be treated as if committed for the first time

217. If the minority of a committee desire to do so, it is admissible for them to present what is called a minority report. In this case, when the report of the majority is read, one of them should move that the report lie on the table, to furnish the minority an opportunity to present their report. If he has it prepared, he should read it. If it is not yet finished, he should state that fact, and move that the report be postponed to a short time in advance, in order to allow the minority to get their report ready. If these motions to defer prevail, as they always should, when both reports are before the assembly, it may adopt one or the other, according as it may meet its views.

SECT. IV.—COMMITTEE OF THE WHOLE.

218. The Committee of the Whole, as its name imports, is composed of all the members of the assembly, and its design is to secure for propositions more extended and detailed examination and discussion than can with certainty be secured under the rules and formalities of the assembly. In committee of the whole, members may speak as often as they can obtain the floor, and the previous question is inadmissible.

219. Besides the two particulars above, the assembly, in the form of the committee of the whole, differs from the assembly proper in four other particulars, as follows: (1) It cannot adjourn. When it completes

its business, it must rise and report to the house. (2) It cannot refer subjects to other committees. In this it differs from ordinary committees also; for they can raise sub-committees and refer subjects to them. (3) The presiding officer of the assembly can, in committee of the whole, take part in the proceedings as though he were a private member. (4) A committee of the whole cannot punish disorderly conduct, but must report it to the house for its animadversion. In other respects, the forms of proceeding are the same in committee of the whole as in the assembly proper.

220. The following is the manner of proceeding in resolving the assembly into committee. A member moves that the house now resolve itself into committee of the whole to take into consideration such a subject. If the motion prevails, the presiding officer calls some one to the chair, and takes his seat among the members. The chairman thus designated will take the president's seat,* and say: "The committee of the whole have referred to them the resolution, &c. relating to ———. Let it be read." After it has been read, he will say: "The resolution, &c. is before the committee." This makes it in order for discussion and other proceedings on it to commence. The assembly can itself appoint the chairman, if it so desires.

221. The quorum is the same as the quorum in the assembly, and is just as necessary in the one case as the other. Whenever it is discovered that a quorum is not present, the committee must immediately rise, and the fact must be reported to the assembly.

222. When the committee have gone through with the resolution or business, by motion and question, it will rise, and the chairman will be instructed to report to the assembly. The president of the assembly will resume the chair, and the chairman of the committee standing up at his own seat, or taking his position at a more convenient place, will say: "Mr. President, The

* Jefferson says he will sit at the clerk's table.

committee of the whole have had under consideration," (mentioning what,) "and have instructed me to report the same," (with certain amendments, naming them, or,) "without amendments,"—or,—"negatived." The president will repeat this report, and present it for the consideration and action of the assembly. Should the proposition or resolution have been negatived by the committee, the presiding officer will put the question: "Will the house agree to the report of the committee?"

223. Should the committee not have completed the business before it rises, the chairman will report progress and ask leave to sit again. If leave be granted, the assembly will name a time when it will again go into committee on that subject. If leave be refused, the effect is to bring up the subject immediately before the assembly.

224. Amendments proposed by the committee may be amended or rejected by the assembly, and matters stricken out by the committee may be restored by the assembly.

225. The secretary of the assembly is required to record only the report of the committee of the whole.

APPENDIX.

OF THE YEAS AND NAYS.

226. The mode of taking the question by yeas and nays is of American origin, and is in principle limited to American legislative bodies. The only design of it is to hold members accountable to their constituents. It is doubtful, therefore, whether it legitimately holds a place in assemblies not legislative. Certain it is that it is inexpedient to call for the yeas and nays in religious bodies. In many cases it would tend to perpetuate divisions that would otherwise be but temporary.

227. When the question is taken in this way, it is stated on both sides at once, in some such way as this: "Those in favor of the proposition will, when their names are called, answer yes; those opposed will, when their names are called, answer no." The clerk then calls the roll, and notes each man's answer in connection with his name. When the roll is gone through with, he will read over first the names in the affirmative, and then those in the negative, that errors, if any, may be corrected. The number then on each side is reported to the presiding officer, and by him announced to the assembly; and the result is declared.

228. As has been already said, in all such cases where the question is put first on one side and then on the other, it is allowable for members to obtain the floor and debate the proposition, even after the affirmative vote has been given, and up to the time when the negative side of the question is put. But in the case of the yeas and nays, where the affirmative and negative vote proceed *pari passu*, it is out of order to renew the debate after the first vote has been given.

229. Every member is under obligation to vote unless excused by the assembly. No member, after the yeas and nays have been called, is permitted to change his vote unless he asserts that he voted by mistake. This is the general rule; but in some of our legislative bodies, members are permitted to change their votes, even after the business is disposed of; provided such change does not affect the general result. No one is permitted to vote after the result is declared by the chair. Finally, no one can call for the yeas and nays on a particular vote after business has progressed beyond the point of that vote.

United States House of Representatives, Jan. 23, 1852. "Mr. Daniel moved that the house resolve itself into a committee of the whole for the consideration of private bills. And the question being put on the latter motion, it was decided in the negative. The Speaker had announced the result of the last vote, and was in the act of putting the question on the motion submitted by Mr. Houston, when Mr. Cabell demanded the yeas and nays on the motion submitted by Mr. Daniel. The Speaker decided that the demand came too late, as the motion had passed from before the house. From this decision of the chair Mr. Cabell appealed." The decision of the chair was sustained.

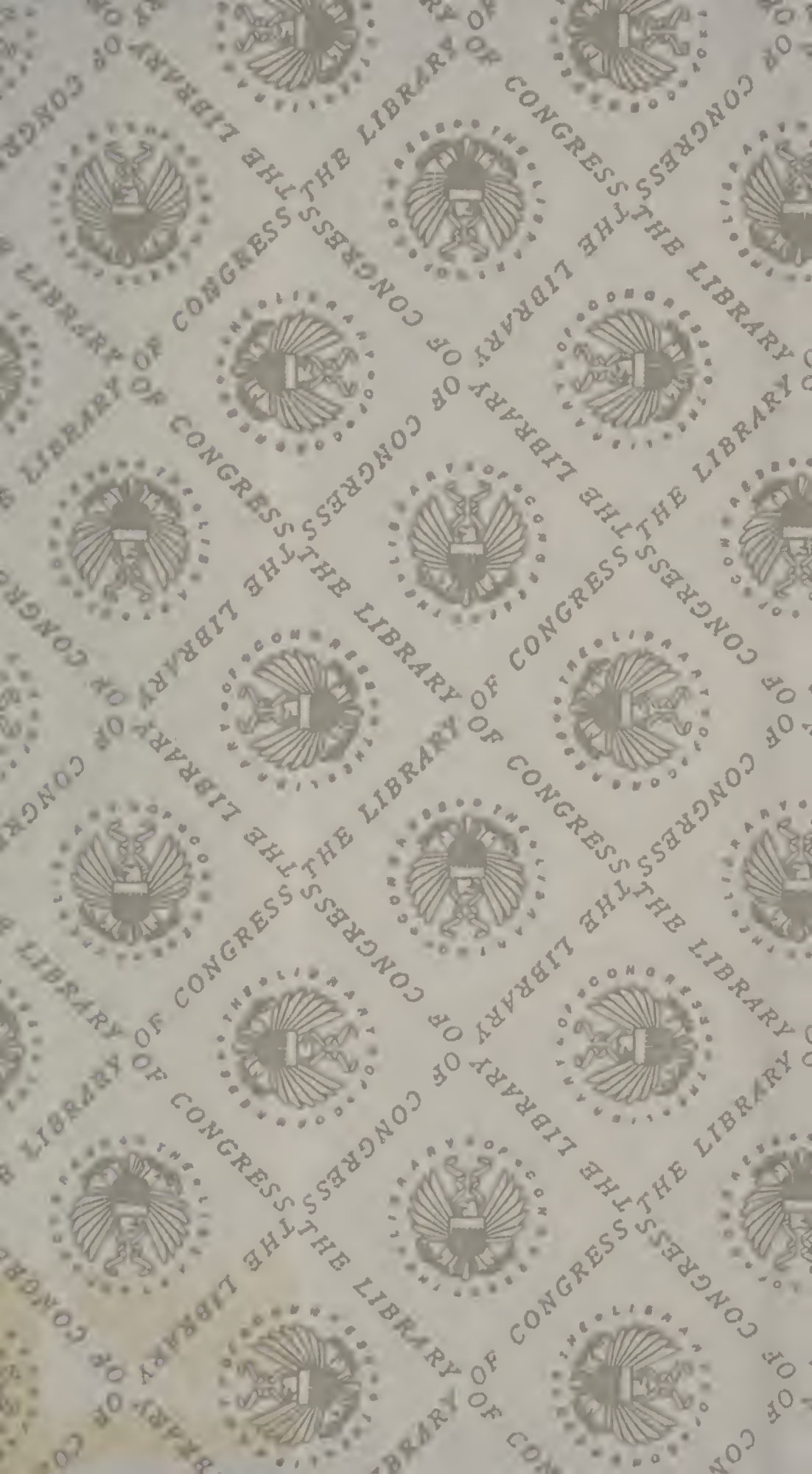
Same session, Aug. 28. "Mr. G. W. Jones arose and asked that his name might be recorded upon the several yea and nay votes taken while he was absent upon the Committee of Conference. Objection being made thereto, the Speaker decided that it was not competent, under the rules, for the gentleman to have his name recorded. From this decision of the chair Mr. G. W. Jones appealed; when, on motion of Mr. Stanley, it was *Ordered*, that the appeal be laid on the table. So the decision of the chair was sustained."

230. The number of members competent to demand that a question be taken by yeas and nays is decided for Congress and for State Legislatures by constitutional provision. In the constitution of the United States the number is one-fifth. Some of the State constitutions give this power to one-fifth; some, to three members; some, to two; and some, to one. In all deliberative bodies, whose constitution or whose rules prescribe nothing on the subject, the yeas and nays can be ordered only by the majority, ascertained by motion, question, and vote.

PROTESTS.

231. All the legislative assemblies in this country admit the right of their members to *protest* against any measure, and to enter their reasons therefor upon the journal. In some of the States, this right is expressly secured and regulated by constitutional provision. Some grant it to two members, and some even to one. But in all deliberative assemblies that have no rule or constitutional provision on the subject, members can enter their protests on the minutes only by the consent of a majority, ascertained by motion, question, and vote.

INDEX.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